EXHIBIT 294

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION	:	HON. DAN A. POLSTER
APPLIES TO ALL CASES	:	NO. 1:17-MD-2804

- HIGHLY CONFIDENTIAL -

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

- - -

October 24, 2018

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Videotaped deposition of STEPHEN MAYS, taken pursuant to notice, was held at the law offices of Reed Smith, LLP, 1717 Arch Street, Philadelphia, Pennsylvania, beginning at 9:37 a.m., on the above date, before Michelle L. Gray, a Registered Professional Reporter, Certified Shorthand Reporter, Certified Realtime Reporter, and Notary Public.

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(AmerisourceBergen)

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E X H I B I T S

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E X H I B I T S (Cont'd.)

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E X H I B I T S (Cont'd.)

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PREVIOUSLY MARKED EXHIBITS

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NO.	DESCRIPTION
Zimmerman-5	Settlement and Release Agreement 6/22/07 ABDCMDL00279854-86

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DEPOSITION SUPPORT INDEX

- - -

Direction to Witness Not to Answer
PAGE LINE
None.

Request for Production of Documents
PAGE LINE
None.

Stipulations
PAGE LINE
None.

Questions Marked
PAGE LINE
None.

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THE VIDEOGRAPHER: We are now on the record. My name is Dan Lawlor. I'm the videographer with Golkow Litigation Services. Today's date is October 24, 2018, and the time is 9:37 a.m.

This video deposition is being held in Philadelphia, Pennsylvania, in the matter of National Prescription Opiate Litigation, MDL No. 2804.

The deponent is Steve Mays.

Counsel will be noted on the stenographic record.

The court reporter is Michelle Gray who will now swear in the witness.

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... STEPHEN MAYS, having been first duly sworn, was examined and testified as follows:

- - -

EXAMINATION

- - -

BY MR. PIFKO:

Q. Good morning, Mr. Mays.

A. Good morning.

Q. How are you?

A. Good.

Q. Can you please -- let's start by having you state and spell your name for the record?

A. Stephen Mays, S-T-E-P-H-E-N, M-A-Y-S.

Q. And we'll just start by going over basics about depositions. I'm sure that in preparing for the deposition, your counsel went over this with you. But we'll hit some of the high points just to make sure that everyone in the room are on the same page. Okay?

A. Okay.

Q. So first of all, you've just been put under oath. That means that if you lie or are intentionally dishonest or deceitful, you can be subject to penalties or perjury charges from the

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court.
Do you understand that?
A. Yes, I do.
Q. Is there any reason why you're unable to give truthful and accurate testimony today?
A. No.
Q. Are you undergoing any treatment or taking any medication that would impair your memory?
A. No.
Q. Is there any reason that you can state that you think that the deposition should not go forward today?
A. No.
Q. I'm going to be asking you questions. And unless your counsel instructs you not to answer, I'm entitled to an answer.
Do you understand that?
A. I understand.
Q. I want to make sure that you understand my questions, so if you don't understand something that I ask you,

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please let me know, and I will attempt to rephrase the question in a way that makes it so that you do understand it. Understood?
A. Yes.
Q. From time to time I might be asking you about historical events. I don't want you to guess. But I do -- I am entitled under the law to your best recollection.
So if you have no idea about something, of course you can say you don't know. But if you have a general recollection, maybe just don't recall the specifics, I'm still entitled to an answer. Understood?
A. I understand.
Q. All right. Well, let's start by talking about -- a little bit about who you are and your background with the company.
Let's talk about your educational experience. I assume you have a college degree?

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A. No, I do not.
Q. Okay. I'm glad I asked. We shouldn't make assumptions here. Did you go to high school?
A. Yes.
Q. Okay. Where did you attend high school?
A. Hixson High School. H-I-X-S-O-N. Hixson High School, Tennessee.
Q. Okay. So high school, did you finish high school?
A. Yes.
Q. Okay. And that's the highest level of education that you completed?
A. Some college. I just didn't get a degree.
Q. Where did you take college courses?
A. Middle Tennessee State University in Murfreesboro, Tennessee, and also University of Tennessee in Chattanooga.

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Q. Were you enrolled as a full-time student at any point?
A. At MTSU, I was.
Q. Okay. And how long were you a full-time student?
A. Just a -- just a semester.
Q. Okay. And then you took some additional classes on a part-time basis?
A. Mm-hmm.
Q. How long did you do that?
A. Probably about six months to a year. I can't remember exactly.
Q. Okay. So you have a year of full-time and then the next year, was it immediately after you kind of switched to doing it part-time?
A. I went to school part-time after I was -- started to work for the company in Chattanooga.
Q. Okay. So you were full-time student, I assume, right after you graduated high school?
A. Yes, that's correct.

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Q. Okay. Then what happened after that first year of school. Let me be more specific. As far as your next career or school movement. Did you immediately start working for AmerisourceBergen?
A. Pretty much so, as I recall, yeah.
Q. Okay. And then there was a time when you were working for AmerisourceBergen and attending school as well?
A. Yes.
Q. Was that --
A. Can I correct you on -- it really wasn't AmerisourceBergen at the time. It was an independent drug company called Duff Brothers --
Q. Okay.
A. -- in Chattanooga. It was a predecessor company to Amerisource.
Q. Okay. So during that time -- that was the year immediately following your first full year of

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school --
A. Mm-hmm.
Q. -- of college?
A. Mm-hmm. Yes.
Q. Okay. So during that next year, you attended classes part-time and worked part-time?
A. I don't recall when I attended classes. It wasn't during that first year of employment. It was sometime after.
Q. Okay. You said that you took part-time classes for six months to a year. Was that consecutive or was that spread out over time?
A. I can't recall. I took -- I think I took an accounting course and something else. But it was after I was employed.
Q. Okay. And that first year when you were full-time, what kind of classes did you take?
MS. McCLURE: Objection.
BY MR. PIFKO:

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Q. Do you remember?
A. The first year of college?
Q. Yeah. When you were a full-time student?
A. Just general courses.
Q. Okay.
A. Yeah.
Q. Did you specialize in any sort of finance classes or business classes or anything like that?
A. I don't recall, because I wasn't really sure what I wanted to do.
Q. Okay. So then you complete that year, how did you come to work at Duff Brothers?
A. Actually went through an employment agency. And that's who they used. And they got me the contact to get the job there at Duff Brothers.
Q. And what was your first job there?
A. As an order filler in the warehouse.
Q. What were your

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responsibilities as an order filler?
A. Stocking the shelves and filling orders for pharmaceuticals.
Q. So Duff Brothers was, you said, a distributor, small distributor?
A. Mm-hmm, yes.
Q. What was its area of regional reach? What customers, where were they?
A. Mainly the area around Chattanooga, north Georgia, Tennessee, North Carolina. In kind of that regional area around Chattanooga.
Q. And what time period is this? Let me ask a more specific question. When did you graduate high school?
A. '73, June of '73.
Q. Okay. And then you were a full-time student in the school year of '73 to '74?
A. Mm-hmm, yes.
Q. You started working at Duff Brothers sometime in '74?

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A. July of '74.
Q. Were you part-time when you started that, or was that a full-time job?
A. Full-time.
Q. And then how long did you serve as an order filler for?
A. I believe about three or four years.
Q. What was your next job?
A. Lead.
Q. It was just called lead?
A. Yes, like lead order filler, where you --
Q. Okay. How long were you in that role?
A. Just about a year.
Q. And then what was your next position?
A. After that I supervised a merchandising and labeling crew for about two years.
Q. What was your next job?
A. Warehouse supervisor.

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Q. Next job after that?
A. Warehouse manager.
Q. How about after that?
A. Operations manager.
Q. After that?
A. I remained operations manager for several years. Moved to Valdosta, Georgia, in I think '94. And we had acquired a distributor in Valdosta, and we consolidated or closed down that distributor, and then we opened a new distribution center in Orlando.
Q. So you threw out a bunch of information there. You mentioned -- so you were -- okay. Let's just make sure that we have time periods on this.
So lead order filler for about one year. You were supervising a merchandising and labeling crew for two years. Then you were warehouse supervisor for about how long?
A. Couple, a couple of years. I'm not really sure. I don't remember.
Q. Then you became manager,

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warehouse manager, how long were you in that role?
A. Probably a couple of more years after that.
Q. Okay. Then you said you were operations manager.
A. Mm-hmm.
Q. Then you mentioned something about Georgia. So your -- Duff Brothers acquired a company that was based in Georgia?
A. Well, our parent company.
Q. Okay. Who was the parent company?
A. Alco. Alco Standard.
Q. How do you spell that?
A. A-L-C-O. Alco Standard, S-T-A-N-D-A-R-D.
Q. Okay. So what was the name of that company in Georgia that was --
A. Valdosta Drug Company.
Q. Sorry. Can you say that again?
A. I'm sorry, Valdosta Drug

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Company.
Q. Can you spell that?
A. V-A-L-D-O-S-T-A.
Q. Okay. Did you ever move to Georgia?
A. Yes.
Q. Okay. So at the time of that acquisition, you moved to Georgia?
A. Yes.
Q. And then maybe what you were trying to say is, were you personally involved in the consolidation of the -- the facilities?
A. Yes. Mm-hmm.
Q. Okay. And so you were personally involved in closing down whatever operations and transferring them to the new operation in Orlando, correct?
A. That's correct, yes.
Q. Do you remember about the time period around when that was, just the year?
A. It was late '94, I believe.
Q. Okay. And then what did you

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do after opening the Orlando distribution center?
A. After that I went to work for corporate as regulatory affairs manager. And that was probably around 2000 I believe. Yeah.
Q. Was all that still for -- Well, okay, so you worked for Duff Brothers, but Duff Brothers was owned by Alco Standard. And they acquired -- I don't think I can say it right.
A. Valdosta.
Q. -- Valdosta Drug Company.
What -- what was the name of the company at that point?
MS. McCLURE: Objection.
BY MR. PIFKO:
Q. Still Duff Brothers?
MS. McCLURE: Objection.
THE WITNESS: Okay. So originally I went to work for Duff Brothers. They were acquired by Alco in '79 I believe. Okay.
BY MR. PIFKO:

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Q. Okay. And so then in 1994 you were still working for Alco, correct?
A. Right about that time.
Q. Okay. When you opened this Orlando distribution center, who were you employed by?
A. Amerisource.
Q. Okay. When did Amerisource get involved?
A. While I was in Valdosta. The -- it was the company did -- went public as Amerisource.
Q. Okay. So you've really been here from the ground floor?
A. Yeah.
Q. Do you know about when the company started using the name Amerisource?
A. Yeah, I think it was '94.
Q. Okay. And to your knowledge, that's the first time the company now known as AmerisourceBergen was using Amerisource?
A. That's, yeah, when they went public, yeah.

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Q. Okay. So then you -- in around the year 2000 you moved into the corporate offices as a regulatory affairs manager, correct?
A. No. That's not correct.
Q. Oh okay.
A. I went to work as a regulatory affairs manager, but I worked from home in Orlando for approximately two years and traveled significantly.
Q. Were you the only regulatory affairs manager for Amerisource at that time?
A. No.
Q. So were you just the regulatory affairs manager for the Orlando facility?
A. No. I had a specific assignment for oversight of several distribution centers, but I can't remember, you know, which -- which area of the country it was.
Q. Did it include the Orlando

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distribution center?
MS. McCLURE: Objection.
You can answer.
THE WITNESS: I don't -- I don't believe so.
BY MR. PIFKO:
Q. Can you name any area that was under your control as a regulatory affairs manager?
A. I can't really recall my main -- my main job responsibility was conducting audits of distribution centers. And so it was basically just assisting certain ones if they had regulatory questions or anything like that.
Q. Who did you report to when you took that job as regulatory affairs manager in the year 2000?
A. Rodney Bias, B-I-A-S is his last name.
Q. Where was Rodney based?
A. He was based at the corporate offices in Chesterbrook.

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Q. Do you know when the company first had its offices in Chesterbrook?
A. I can't remember exactly the date.
Q. How about roughly?
A. I think it probably would have been late '90s.
Q. Around when it went public or after that?
A. I think it was around that time. They were in the same area but a different office complex.
Q. So you were kind of telling me, but let me just ask you more specifically. What was your job responsibilities as a regulatory affairs manager when you took that position in the year 2000?
A. Conduct security and regulatory audits of our distribution centers and provide regulatory assistance.
Q. So you would travel to distribution centers to conduct these

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audits?
A. Mm-hmm, yes, sir.
Q. Do you recall about how many distribution centers the company had at that time?
A. It seems like it was in the 20s, 22, something like that.
Q. Did you travel all around the country?
A. Yes, sir.
Q. Can you remember any specific locations that you recall traveling to to perform these audits?
A. Quite a few, yeah.
Q. Okay. Just name some that you remember.
A. Toledo. Columbus. Portland. Mira Loma, California. Grand Prairie, Texas. Lynchburg, Virginia. I can't remember any others. There were others.
Q. Did you receive any special training when you became regulatory affairs manager?

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MS. McCLURE: Objection.
THE WITNESS: Yes.
BY MR. PIFKO:
Q. Okay. What was the nature of your training?
A. It was called -- I think at that time it was a 12-hour security and regulatory compliance training program.
Q. And how was that conducted? Did someone come and make a presentation to you or was there a video, or do you remember?
A. It was basically in-person training at a compliance conference.
Q. Did you fly to the headquarters in Chesterbrook to receive that training?
A. Sometimes it was there, and other times it was remote.
Q. So there was more than one training session?
A. Yes. Pretty much annually for the most part.
Q. Okay. And so annually

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was -- you said 10 to 12 hours I think you said?
MS. McCLURE: Objection.
THE WITNESS: Yes.
BY MR. PIFKO:
Q. So is that a couple days a year you would do training?
A. I believe so, yeah.
Q. Do you remember the name of any of the people who performed the training for you?
A. Yes.
Q. Can you tell me those names?
A. Rodney Bias. Larry Holland. Those two mainly.
Q. Where was Rodney based?
A. In the corporate office.
Q. In Chesterbrook?
A. Yes.
Q. How about Larry Holland?
A. He was prior to Rodney. I think he hired Rodney and then I think Larry retired, but I think Larry was there to also -- he worked out of the

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corporate office.
Q. Did you receive any documentation when you received these trainings?
A. Yes.
Q. Were there handouts? Yes?
A. Yes.
Q. Can you describe anything that you remember from the training?
A. It pretty much covered all of the regulatory requirements that we have as a company. And it was focused a lot on, you know, DEA regulations and how to comply with those. And how the company complies with them.
Q. But the Controlled Substances Act, have you heard of that?
A. Yes. Of course.
Q. That kind -- the training about regulations under the Controlled Substance Act; is that correct?
A. That's correct.
Q. Did you receive training on, have you heard the term diversion?

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A. Yes.
Q. Okay. Have you heard about the idea of a -- do you know what a registrant is?
A. Yes.
Q. Okay. Have you heard about the idea that a registrant has a duty to prevent diversion?
MS. McCLURE: Objection to form.
You can answer.
THE WITNESS: Yeah, I'm not sure of the exact wording, yes.
But yes.
BY MR. PIFKO:
Q. Okay. Do you understand that at that time Amerisource was a registrant under the Controlled Substance Act?
A. The Amerisource registered locations were, yes.
Q. Okay. And did you understand that those registered locations had a duty to prevent

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diversion?
MS. McCLURE: Objection.
You can answer.
THE WITNESS: Again, I don't remember the exact wording of the regulation. But there is -- there is a requirement.
BY MR. PIFKO:
Q. Was there training as regulatory affairs manager geared around what these locations needed to do to prevent diversion?
A. Yes.
Q. Did you have -- so you performed audits, correct?
A. That's correct.
Q. Did you have like a checklist or some sort of outline you would use when you did your audits?
A. Yes.
Q. Did that have a name?
A. It was just security and regulatory compliance audit checklist. I think something, something like that,

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yeah.
Q. Was it a long document?
MS. McCLURE: Objection. Form.
THE WITNESS: I don't know what do you mean by long.
BY MR. PIFKO:
Q. I knew you were going to say that. Was it more than 50 pages?
A. Again, that depends on like is it printed front and back. Or, you know, I can tell you that it was approximately 200 questions, but it was constantly changing.
Q. This is in 2000 we're talking about, correct?
A. Mm-hmm, yes.
Q. And so I assume it wasn't digital. It wasn't on the internet. You had a physical copy?
A. Right, that's correct.
Q. You take it with you to when you did the audits?
A. That's correct.

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Q. Okay. Was it in a notebook or something?
A. Just typically not in a notebook, basically just stapled together.
Q. Okay. So it was big enough that it could be stapled -- small enough that it could be stapled together, correct?
A. Or with a binder of some sort, yeah.
Q. I've got a bunch of papers in front of me. I've got this notepad. I've got a binder here, that's about two inches thick. Was it more like this notepad?
A. Mm-hmm, yes.
MS. McCLURE: By "this notepad," do you want to describe that for the record?
MR. PIFKO: Yeah, for the record the notepad's maybe a centimeter thick. It's a standard legal pad. 8-and a half-by-11

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piece of paper.
BY MR. PIFKO:
Q. So -- but something that you can easily just carry along in your hands, correct?
A. Correct.
Q. Okay. And so you would take that with you when you would do these audits, correct?
A. That's correct.
Q. And then was there a procedure that you would use when you were conducting these audits?
A. Yes.
Q. Okay. Can you walk me through what the procedure is?
A. Phew.
Q. Let me explain what I'm looking for.
A. Yeah, that would help.
Q. Do you call the facility in advance of conducting the audit, let them know when they are coming, when you get there, do you talk to a manager? Was

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there a way that you walked around the plant?
MS. McCLURE: Objection to form.
BY MR. PIFKO:
Q. That's what I'm asking -- --
MS. McCLURE: Compound.
BY MR. PIFKO:
Q. -- when I say is there a procedure that you followed.
A. Yes.
Q. Okay. Let me -- I can tell your counsel told you to answer the questions in a very narrow way. So let me just unpack this for you.
MS. McCLURE: Object to the commentary for the record.
BY MR. PIFKO:
Q. Do you call up somebody at the facility before you are going to conduct the audit to let them know that you were coming?
A. No.
Q. You would just show up at

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random?
A. Yes.
Q. Okay. When you arrived at the facility, what was the first thing that you did?
A. Conduct an opening meeting.
Q. And just to be clear, you used the same procedure regardless of the location that you were auditing, correct?
A. That's correct.
Q. And you used the same audit checklist or document that we talked about, correct?
A. That's correct.
Q. So you walk in the facility. You ask for somebody. You said you had some sort of meeting. That was the first thing you do?
A. Mm-hmm, yes.
Q. Who do you ask for?
A. I think at that time it would probably have been like the distribution center manager.
Q. Okay. And so they had no

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idea that you were coming?
A. They didn't.
Q. Okay. They have to drop whatever they're doing and come meet with you?
A. Yes.
Q. So you go meet with them in a conference room?
A. Typically.
Q. And you tell them, "Hi, I'm here to conduct an audit," correct?
A. That's correct.
Q. And then you tell them things that you are going to be doing in the audit, places that you need to go?
A. Correct.
Q. Okay. What was the next step after you had the initial meeting with the distribution center manager?
A. We would ask them for a list of documents and records that we want to review. And then we would do a walkthrough of the facility.
Q. Do you recall what the types

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of documents were that you would review?
A. I can't give you an all-inclusive list. It would be like DEA 224 forms, inventory reports, a lot of corporate required records about, you know, associates. We would ask for training records. Things like that. Records and reports.
Q. Have you heard the term "suspicious order" before?
A. Yes.
Q. Did you ask for suspicious order reports as part of these audits?
A. I believe so.
Q. And then you said you did a walkthrough of the facility?
A. That's correct.
Q. What did you do in the walkthrough?
A. Just look for any type of obvious security or safety violations.
Q. And then when you document your findings in the walkthrough?
A. Yes. That's part of the

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audit.
Q. Then you have a document that you're using to guide you through the process, correct?
A. That's correct.
Q. Are you -- you're writing on that document things that you're observing, as you're doing the walk through?
A. Typically not at the same time.
Q. Okay.
A. It's cumbersome to carry a checklist around all over the place with you. So...
Q. So what happens after you do the walkthrough?
A. Usually go back to wherever they've assigned us to work, a conference room typically. And wait for them to bring the records and things that we had requested.
Q. And then you would review the records?

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A. Mm-hmm, that's correct.
Q. And then what would you do?
A. Well, once we review the records, there's typically other parts of the audit. We would go back and test the doors to the cage and the vault. Make sure everything was constructed as it's supposed to be, and is secured and operating the way it should. We do different walkthroughs as part of the audit.
Q. Okay.
A. Inspect the security.
Q. After that, what would you do?
A. Complete the review of the records. And then at end of the audit we would conduct an exit meeting and go over our observations with the management team.
Q. Then you would go home?
A. Go home.
Q. Okay. How long does the audit take from start to finish?

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A. At that time probably close to a full week. We would usually start on Monday and finish either Thursday afternoon or Friday morning.
Q. You said we. Did you have a team of people that went with you?
A. No. Typically it was just one auditor. Sometimes it would be two depending.
Q. Okay. So you alone or you and someone else?
A. Typically, yeah. Typically alone.
Q. Do you remember anyone else that accompanied you on any audits?
A. No, I don't.
Q. So you said, we talked about the walk through and documenting your findings.
Would you then document things after that week was over or you'd be doing it along the way while you were in the offices at the facility?
A. Well, each auditor -- each

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auditor may have done things a little differently. So it wasn't a standardized process. So, but, you know, typically go back to the office, collect all the notes and observations, and then create a report.
Q. And was that report completed at the end of the week?
A. Typically within a two-week period.
Q. Okay. So within two weeks after you started the audit, you'd have to report complete?
A. Yes. It would be called a preliminary report.
Q. Then what did you do with the preliminary report?
A. That would get issued to the audited -- audited entity. And then they would be given a certain amount of time to provide corrective action responses for any of the observations, written corrective action responses.
Q. And was this preliminary

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report shared with anyone in corporate as well?
A. Yeah. I mean I had to go over that with my boss to make sure that he was okay with any of the observations and had any comments about, you know, whether they should be revised in any way or...
Q. You'd go over that with him before you shared it with the distribution center?
A. Yeah.
Q. Do you know if the report was filed in any centralized location at the company?
A. At that time, I'm not really sure. I don't recall how those were maintained.
Q. How frequently did you -- what -- how frequently would an audit be conducted at a specific distribution center?
A. For the most part, pretty much every year. Usually annual basis.

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Q. Was there some -- okay. Was there some sort of regular schedule in which they would be conducted?
MS. McCLURE: Objection to form. You can answer.
THE WITNESS: Yeah, I -- I don't recall exactly.
BY MR. PIFKO:
Q. But generally, once a year for every facility?
A. Yes.
Q. Do you remember how many other people had the same job as you at that time?
A. As I recall, I think there were about three or four of us. I can't remember exactly.
Q. So at some point you transitioned out of that role, correct?
A. That's correct.
Q. What was your role after that?
A. I think it was as director. And that was when I moved to corporate.

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Q. You were director. So you were still in regulatory affairs, you just moved from manager to director?
A. I believe so.
Q. At some point you moved away from Orlando, correct?
A. Yes.
Q. Was it at the time when you moved from manager to director?
A. I believe so, yeah.
Q. And when was that?
A. It was, I believe, October 2002.
Q. Do you know if there was a written policy about the annual audit requirement?
A. I believe so, yes.
Q. Do you know if there was like a policy number associated with the policy?
A. Well, let me -- let me step back. I don't -- I'm not sure there was a written policy that -- that stated that it was an annual inspection. But there

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was a written -- written policy on conducting the audits.
Q. Okay.
A. I don't think it had anything -- I don't think it specified the frequency.
Q. And do you remember if there was a policy number for that policy?
A. I can't remember the policy number. But there is a policy.
Q. When you were manager of regulatory -- when you were regulatory affairs manager, did you have any other job responsibilities besides conducting these audits?
A. Yes, I just can't remember what they were at the time. It was basically providing regulatory assistance if there were questions or anything like that from the field.
Q. So that -- you were one of a few people that someone could call if they had a compliance question?
A. Yes.

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Q. Was there a hotline or how would people know how to call -- how to call you?
A. I -- I don't remember. I think they -- you know, I'm sure -- no, I don't even want to speculate. I don't remember.
Q. Did you have a mobile phone at that time?
A. Oh gosh. I don't think so.
Q. You worked out of your -- your house at that time?
A. From?
Q. 2000 to 2002?
A. 2000 to 2002, yes.
Q. So if you had a business call, they would call your house?
A. I don't remember.
Q. Did you have a separate office in your house where you would work?
A. Yeah.
Q. Okay. Do you know -- did you have a separate line for doing work

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versus your personal line?
A. I can't remember if it was a separate line or not.
Q. Okay. But do you know if you had e-mail at that time?
A. I believe so.
Q. Okay. So when you fielded questions about compliance issues, would those be raised to you by e-mail, or by phone or both?
A. Probably both.
Q. Okay. Do you recall handling compliance inquiries from your home office?
A. I don't remember.
Q. Do you know if there is some sort of written documentation that listed you as a contact person for compliance questions?
A. There could have been, but I'm not sure.
Q. Do you have any idea how someone would know that they could call you if they had a compliance question?

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A. I assume they had my contact information. I just don't remember exactly what form that was in or whether it was a policy or a sheet or what.
Q. Okay. Do you know if there was a company directory?
A. I think so.
Q. Did you have business cards when you were conducting these audits?
A. I think so. But I'm not positive.
Q. Did you give people, when you met the distribution center manager, did you give them your business card?
A. I think so. But I don't recall 100 percent of the time.
Q. Was your name on the audit report?
A. Yes.
Q. Did you sign it?
A. I don't think I signed them, no. But it had my name on them.
Q. Do you know if the audit report had your contact information,

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e-mail or phone number?
A. I think so. Yeah, I believe it did.
Q. Do you recall that -- telling the distribution center managers as part of your process, that if they had questions about compliance, they could call you?
A. I don't specifically recall telling them that, but that would make sense.
Q. So in 2002 you are promoted to regulatory affairs director, correct?
A. I believe so.
Q. Okay. And you moved to Chesterbrook, Pennsylvania, correct?
A. That's correct.
Q. Who did you report to at that time?
A. Rodney Bias.
Q. And did Rodney get a promotion at that same time?
A. I don't think so, no.
Q. Do you know what Rodney's

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title was at that time?
A. You know what, he may have been director. Maybe it was -- maybe I was manager when I went up there. I don't -- I don't distinctly remember the titles. They changed so much.
Q. Okay. But you got promoted in 2002.
A. Right.
Q. And you moved to the headquarters in Pennsylvania?
A. That's correct.
Q. How did your -- well, what were your job responsibilities when you got promoted in 2002?
A. I supervised the -- the team that did the audits for the most part.
Q. Did you provide training to the team that did the audits at that time?
A. Yes.
Q. Did anyone else provide training?
A. I'm sure they do -- did, but

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I don't remember who. Again, we had training every year.
Q. I guess I'm specifically speaking about the audits, the audit process. Do you know if you -- if you were the only person who provided training to regulatory affairs people who were conducting audits?
A. I don't think it was just me. Maybe one of the more experienced auditors would also train them.
Q. Do you know any of the names of the people that you're referring to as more experienced auditors?
A. Yes. There was a lady named Jan Black. She was probably the most experienced auditor.
Q. Anyone else?
A. No.
Q. Where was Jan Black located physically?
A. She worked out of Charleston, South Carolina.
Q. Did you interact with her in

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person?
A. Yes.
Q. Okay. Did you do that in Pennsylvania?
A. Most -- for the most part, yes.
Q. So she would come to Pennsylvania to meet with people --
A. For conferences and meetings and so forth.
Q. So you supervised the auditors when -- when you got promoted. Anything else you did?
A. That's all I can recall.
Q. Did you have -- and part of that supervision of the auditors included training them, correct?
A. Training them, yes.
Q. Did you have written documentation that you used when you were training the auditors?
A. I don't believe so, I don't believe so. It was pretty much on -- you know, we would go out on training audits

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and observe them going through the audit process and provide assistance to them.
Q. Okay. So it wasn't like a formal class or office conference room setting --
A. No.
Q. -- it would just be like on-the-job training, you would go with them and walk them through the process?
A. That's correct.
Q. Was there -- was each auditor assigned to a specific region?
A. I think so. Yes.
Q. Okay. And we -- we talked earlier about you had some sort of regional assignment when you were an auditor, but you don't remember when it was?
A. I don't --
MS. McCLURE: Objection, misstates the testimony. You can answer.
THE WITNESS: I don't remember.

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BY MR. PIFKO:
Q. How many auditors -- did the auditors, when you were -- when you were promoted in 2002, did the auditors report to you?
A. Yes.
Q. Okay. How many were there at that time?
A. I think there were three or four. I can't remember the number. It's changed over the years.
Q. Did you receive any additional training from somebody else when you moved into that new role in 2002?
A. No. Just -- no.
Q. Did you provide performance evaluations of the auditors who reported to you?
A. I believe so.
Q. Was there a document that you used to evaluate their performance?
A. I'm sure there would be, yes.

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Q. But you don't remember?
A. I don't remember exactly what the document is, because again those things change over time. I don't remember what the process was in that -- during that time period.
Q. How frequently did you review the auditor's performance?
A. Well, there's a formal performance review that I believe was every year. But it was ongoing.
Q. Was there a way to write someone up if you were not satisfied with the way they were performing?
A. Yes.
Q. Okay. Is there an official name for the document that you would write them up on?
A. I don't remember what it would be.
Q. Okay. Do you remember doing that from time to time?
A. Not specifics, but I'm sure I did.

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Q. What -- do you remember what the consequences are if you wrote someone up?
A. Our company had a progressive discipline par -- policy, so it depended on what the issue was. Typically, it's a verbal to start with, then a written. And then it could be a second written. It just depends on what it is.
Q. Okay. Could someone be terminated if they had in -- consistency poor performance?
A. They could.
Q. Did anyone ever review your performance on the job?
A. Yes.
Q. Okay. Did you ever receive a poor performance review?
A. I don't recall ever receiving a poor performance review.
Q. Do you ever -- ever remember having a verbal warning from someone about your performance?

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A. I don't recall having one.
Q. How long were you -- you said it was director, but then you weren't sure if maybe it was manager. The role that you took in 2002, how long were you in that role?
A. I don't remember when I was promoted again. But it was probably sometime around after 2007, I think.
Q. What was your role then?
A. I think it was -- I believe it was director. And I just can't remember when I was promoted to senior director. There's been so many changes over the years. I don't remember the titles and exactly when.
Q. So at some point you were director. And then at some point you were senior director, correct?
A. Mm-hmm, that's correct.
Q. Okay. But you distinctly remember a promotion in 2007?
MS. McCLURE: Objection.
THE WITNESS: No.

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BY MR. PIFKO:
Q. Okay. I asked you when you were promoted from the position that you were in in 2002. Do you recall me asking that? And you said around 2007.
MS. McCLURE: Objection.
THE WITNESS: Again, I don't remember.
BY MR. PIFKO:
Q. Well, do you remember we talked earlier about your trying to provide your best recollection. What's your best recollection of the time when you were promoted from the position that you started in in 2002?
MS. McCLURE: You can provide your best recollection. But I'm going to counsel the witness not to speculate.
THE WITNESS: I can't. I just don't remember, you know, when that change happened.
BY MR. PIFKO:
Q. Okay. You said earlier

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something about 2007. What struck out about that time for you?
A. My responsibilities, you know, increased.
Q. Okay. So regardless of the title. At some point around 2007, your responsibilities increased, correct?
A. That's correct.
Q. Okay. What were your increased responsibilities at that time?
A. Developing the -- enhancing the order monitoring program.
Q. Was there something that happened that caused you to remember the year 2007?
A. Mm-hmm.
Q. What's that?
A. That was when we had the suspension of our registration at the Orlando facility.
Q. Do you know if the company entered into a settlement with the DEA at that time in connection with the suspension?

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A. Yes, they did.
Q. Okay. I'm handing you what's been previously marked as Zimmerman Exhibit 5. Have you seen this before?
A. I have, yes.
Q. Is this -- this the settlement agreement to which we were just discussing?
A. Yes, I believe it is.
Q. Okay. Is there a date on there?
A. The day that it was signed?
Q. Yeah.
A. Yeah. It looks like June of 2007, June 22nd.
Q. So there was a shift in your responsibilities as a result of that settlement, correct?
A. That's correct.
Q. And you said at that time you took over the responsibility of developing and enhancing the company's order monitoring program, correct?

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A. Or overseeing the development of it.
Q. Okay. Over -- so you were in charge of overseeing the development of the order monitoring program?
A. Of the enhancement of it, yes.
Q. Okay. Did the company have an order monitoring program prior to 2007?
A. Yes.
Q. Are you familiar with what the company's order monitoring program was prior to 2007?
A. Yes.
Q. How did you come to be familiar with the company's -- can I just call it the pre-2007 order monitoring program for that --
A. Fine with me.
Q. If I use that term, can we -- can we agree that that means the program that was in place prior to the program that was developed from the

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settlement agreement, correct?
A. It was a different program, yes.
Q. Okay. So I'm just saying if I call it the pre-2007 order monitoring program, can we have a common understanding that that means the program that was in place before the new one that you developed from the settlement agreement?
A. I think so, yes.
Q. Okay. So the pre-2007 order monitoring program, you had familiarity with that program, correct?
A. Yes.
Q. Okay. How did you come to be familiar with that program?
A. Just as part of my job responsibilities, my boss helped develop that program, Chris Zimmerman.
Q. Okay. When did Chris Zimmerman become your boss?
A. In -- well, he -- at the -- you mean my direct boss?

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Q. Well --
A. Or -- he was the head of the department at the time of the merger, became the head of the department.
Q. Okay. Let's go through some of those details.
A. Okay.
Q. Rodney Bias was your supervisor --
A. That's correct.
Q. -- for a time period?
A. Mm-hmm.
Q. Then you moved to the headquarters in 2002. And you said Rodney was still your supervisor at that time?
A. Yes. Yes.
Q. Okay. At some point there was another corporate merger, correct?
A. Not after 2002, I don't believe.
Q. The only ones that we've discussed -- maybe it's in your head but we haven't discussed it.

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A. All right.
Q. So we talked about some of the earlier iterations of the company. But at some point Amerisource merged with the Bergen Corporation, correct?
A. That's correct.
Q. And do you know on or around when that was?
A. Yeah, it was 2001.
Q. And that's while you were serving as regulatory affairs manager, correct?
A. That's correct.
Q. Did anything about your job change after that merger, in that -- in that immediate time period?
A. I don't recall, because I was already working for corporate so.
Q. So you were a regulatory affairs manager from 2000 to 2002. And halfway through that period there was a merger between Amerisource and the Bergen Corporation, correct?
A. That's correct.

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Q. Okay. And you don't remember anything dramatic changing about your job during that time period?
A. I don't remember anything dramatic, no.
Q. And then in 2002, you moved to the headquarters in Pennsylvania. And at that time, it was the AmerisourceBergen Corporation that we know today, correct?
A. Yes. That's correct.
Q. Okay. And Rodney Bias was still your manager in 2002, correct?
A. Yes.
Q. At some point he wasn't your manager, correct?
A. Yes.
Q. Do you remember who the next person who you reported to was?
A. That would have been Chris Zimmerman, yeah.
Q. Okay. Do you have a recollection about when you started reporting directly to Chris Zimmerman?

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A. No, I don't remember exactly when it was, but Rodney Bias left the company and I was promoted to his position.
Q. Okay. And that was -- but that was before 2007?
A. Yes.
Q. Okay. So maybe that's in your mind when you moved from manager to director, it was sometime between 2002 and 2007?
A. I believe so.
Q. Okay. And at that time you started reporting directly to Chris Zimmerman?
A. That's correct.
Q. Chris Zimmerman came to the company through the Bergen Corporation, correct?
A. That's correct.
Q. Okay. Prior to -- well, when was the first time that you met Chris Zimmerman?
A. I think it was -- it was

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sometime in 2001. It might have been right after the merger. I remember him coming to Orlando, because I think I was still working there then. And I remember meeting him there, at the distribution center. He came for a visit.
Q. Okay. So when he assumed his new role at the merged corporation, one of the things he did was come to the Orlando facility?
A. I believe so.
Q. And in connection with that visit was the first time you met him?
A. Mm-hmm, yes.
Q. Okay. And then you started reporting to him sometime in between 2002 and 2007, correct?
A. I believe that's correct.
Q. Okay. After you started reporting to him, did you have any involvement with the order monitoring program?
A. After I started reporting?
Q. Immediately after you

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started reporting to him.
A. Yes.
Q. Okay. And what was the nature of your involvement with the order monitoring program at that time?
A. It was just because it was part of regulatory compliance. It was part of my job responsibilities to make sure that we were reporting.
Q. When you say reporting, what do you mean?
A. Reporting suspicious orders to DEA.
Q. When was the first time that you recall becoming familiar with the idea of reporting suspicious orders to the DEA?
A. Way back when I was in Chattanooga as an operations manager.
Q. Okay. And you just testified that it was part of your job to ensure that the company was reporting suspicious orders to DEA, correct?
A. That we were complying with

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the requirement, yes.
Q. When did you first understand that to be part of your job?
A. Probably sometime after I moved to the corporate office.
Q. Sometime after 2002?
A. Yes.
Q. So you said that Chris Zimmerman developed the pre-2007 order monitoring program, correct?
A. Well, it was developed by Bergen. He oversaw the development, but I don't think he personally developed the program.
Q. Okay. Did Amerisource have an order monitoring program prior to the merger with the Bergen Corporation?
A. Yes.
Q. Are you familiar with what the program was?
A. I don't recall.
Q. Did you have any role in carrying out any attributes of the program when you were at the Amerisource

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Corporation?
A. I don't recall what it was.
Q. Did you ever receive any training from anyone in the time when you were just at the Amerisource Corporation about the order monitoring program?
A. I don't remember.
Q. Sitting here today, can you describe anything about the Amerisource order monitoring program?
A. I can't remember specifics.
Q. Have you ever heard the term "threshold"?
A. Yes.
Q. Do you know what that means?
A. What "threshold" means? Basically, yes.
Q. What's your understanding of what the term "threshold" means?
A. Basically it's a trigger.
Q. A trigger for what?
A. Well, as -- as it relates to suspicious order reporting? Is that what you're asking?

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Q. I'm asking for your understanding. So you tell me.
A. Well, just the word "threshold" --
Q. Okay. Fair enough. We're talking about the order monitoring program.
A. Okay.
Q. So do you have an understanding that threshold has a meaning within the idea of an order monitoring program?
A. Yes, it does.
Q. Okay. And what's your understanding of what a threshold is in the context of an order monitoring program?
A. A threshold would be a quantity of controlled substances, depending on what drug family it is that is being ordered that would trigger an order to be reviewed.
Q. And reviewed for what?
A. Reviewed to determine

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whether it would be considered suspicious or not.
Q. I'm talking about just the time before Amerisource merged with the Bergen Corporation. Do you know if Amerisource's ordering monitoring program used thresholds?
A. I don't think so.
Q. You don't think it did?
A. I don't think so.
Q. Do you have any idea of what the criteria were under the Amerisource order monitoring program for reviewing an order to determine whether it was suspicious?
A. To the best of my recollection it was just a percentage. It was a formula that I think had been provided by the trade association or something back in the day, or from DEA. I can't remember where the formula came from. But it was looking at a percentage of that customer's orders, if it exceeded a certain percentage of their normal

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monthly purchase of that drug, that it would be flagged.
Q. Okay. Then it would be flagged as suspicious?
A. On the report.
MS. McCLURE: Objection.
THE WITNESS: I'm not sure. I don't think it was flagged as suspicious.
BY MR. PIFKO:
Q. Okay. It would be flagged for review?
A. Just flagged for -- for a report to be sent to DEA.
Q. Okay. And reported --
A. This is -- we're still talking about the Amerisource days, right?
Q. Yes. Reported to DEA as what?
A. I don't remember what -- how it was reported. Possible -- possible suspicious order or something like that.
Q. Okay. You understand --

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have you heard of ARCOS?
A. Yes, I do.
Q. Okay. So under ARCOS, a distributor is required to report all orders to the DEA, correct?
A. No. That's not correct.
Q. Of controlled -- sorry, I'm -- I'm making assumptions in my question there.
Of controlled substances, certain identified controlled substances, all orders must be reported to DEA through the ARCOS program, right?
A. All ARCOS required -- all ARCOS reportable controlled substances, yes.
Q. Okay. And so when we are talking about this, again we are just talking about the Amerisource -- prior to the Amerisource and Bergen Corporation merger --
A. Mm-hmm.
Q. -- and we talked about exceeding some sort of percentage of that

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month's order and reporting to DEA. We're -- we're talking about a report that has nothing to do with ARCOS, right? We are talking about a separate report, correct?
A. Yes.
Q. Okay. And you don't know what that report is, but it's in connection with some sort of suspicious order, regulations or requirements?
A. As I recall, yes.
Q. Okay. Do you recall if Amerisource, pre-Amerisource and Bergen merger, had any other criteria for evaluating whether an order was suspicious?
A. Yes.
Q. What were those criteria?
A. We had a posting that we required, that was required to be posted in the cage and vault that had quantities listed that -- for order fillers at the time, that they could also -- you know, we didn't want to rely totally on the

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computer system to identify an order that could be potentially suspicious. So there were base -- I think it was base quantities that an order filler could review to see if it might be considered suspicious. I don't remember what it was called.

Q. Okay. So there's base quantities and then some sort of percentage over that customer's months -- prior month's order that could lead an order to be reported to the DEA as suspicious, is that correct?

MS. McCLURE: Objection to form.

THE WITNESS: I think so. I don't remember how that -- I think it was a monthly report, but I don't remember exactly.

BY MR. PIFKO:

Q. When you say a monthly report, you mean the -- the reporting to DEA was -- was monthly or --

A. No. There was a report sent

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to DEA monthly.

Q. Okay. So there's some kind of suspicious order report sent to the DEA every month?

MS. McCLURE: Objection. Form.

THE WITNESS: Again, I'm not sure what it was called. But it was a report that was sent to the DEA I believe every -- I believe every month.

BY MR. PIFKO:

Q. Okay. And again, for clarity, this is separate than the ARCOS reporting, correct?

A. Yes.

Q. Okay. And so for an order to be included in this report to the DEA, in the pre, before the merger between Amerisource and the Bergen Corporation, it could exceed some absolute number that was posted in the cage or it would exceed that customer -- some percentage of that customer's prior order, correct?

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A. That's correct.

Q. If an order was included in this monthly report that you're talking about that was sent to the DEA, did the company still ship the order?

A. At that time I believe so, for the most part.

Q. What would be the exception?

A. I think in some cases they may have called a customer. It depends on how late in the day it was, and ask a question about it. And if it was unusual for some reason, they may cancel the order. But for the most part they were shipped.

Q. Okay. Then 2002, you moved to the headquarters and you start at some point between 2002 and 2007 -- you start reporting to Chris Zimmerman, correct?

A. That's correct.

Q. So you said that Mr. Zimmerman, it was your understanding that Mr. Zimmerman oversaw the development of the suspicious order

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monitoring program at the Bergen Corporation; is that correct?

MS. McCLURE: Objection. Form.

THE WITNESS: Again, I don't know how much involved he was. I just saw his correspondence back and forth with DEA to get it approved.

BY MR. PIFKO:

Q. So ultimately the AmerisourceBergen Corporation decided to use the Bergen Corporation's ordering monitoring program, correct?

A. That's my understanding, yes.

Q. Do you have any knowledge about the decisionmaking process, about how the company came to decide to use the Bergen Corporation's order monitoring program as opposed to Amerisource's order monitoring program?

A. No.

Q. Do you know who might have

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made that decision?
A. No.
MS. McCLURE: Mark, at some point soon, if there's an appropriate time for a break, I appreciate that.
MR. PIFKO: Yeah, we can take a break right now.
MS. McCLURE: Thank you.
THE VIDEOGRAPHER: We are going off the record. The time is 10:49.
(Short break.)
THE VIDEOGRAPHER: Going back on the record. Beginning of Media File Number 2. The time is 11:05.
BY MR. PIFKO:
Q. I believe I asked you earlier, but do you recall ever conducting an audit of the Orlando facility that had its registration revoked?
A. Did you say -- can you

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repeat that?
Q. So, okay. We talked about the 2007 settlement agreement. You have a copy of that in front of you, correct?
A. Yes.
Q. And that concerned --
A. Yes.
Q. -- an Orlando facility distribution center, correct?
A. That's correct.
Q. And you, you performed audits of the company's distribution centers, correct?
A. That's correct.
Q. And did you ever audit the Orlando facility?
A. Yes. Yeah.
Q. How many occasions do you recall auditing the Orlando facility?
A. I think two. But I'm not -- I'm not 100 percent positive. But I think two times.
Q. Do you remember when that was?

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A. Probably between -- don't know for sure. I think it was between 2002 and 2007. Something like that. Somewhere in that time frame.
Q. And when you weren't the actual one who audited that facility, you also managed all the -- all the auditors, correct?
A. After 2002, yes.
Q. Okay. So whoever it was that audited the facility was a direct report to you, correct?
A. That's correct.
Q. And I believe you said earlier, you -- you actually were the person who established that facility in your -- back in the old days of your original job, correct?
A. As the operations manager, yes.
Q. When you -- on the two occasions that you recall inspecting the Orlando facility, do you recall identifying any concerns that would lead

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you to believe that the registration for that facility would be in jeopardy?
MS. McCLURE: Objection to form. You can answer.
THE WITNESS: No.
BY MR. PIFKO:
Q. At any point when you were supervising the people that conducted the audits of that facility, did anyone bring concerns to you about the Orlando facility that would have led you to believe that its registration was in jeopardy?
A. No.
Q. You talked about when you were -- we talked about the audit process. And you said that when you conducted an audit, one of the parts of the process was that you had to share it with your boss before you shared it with the facility, just to go over it with them, correct?
A. That's correct.
Q. Was that the same policy

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when you were supervising auditors, they had to also share their reports with you before they sent it to the manager of that facility, is that correct?
A. That's correct.
Q. Okay. And so the audits of the Orlando facility where you were not the one conducting it, those would have been shared with you, correct?
A. That's correct.
Q. Okay. And do you ever recall seeing anything in the audit reports that would have led you to believe that the registration would be in jeopardy for that facility?
A. No.
Q. Upon learning that the registration for that facility was suspended, did you revamp the audit process so that you could identify those issues ahead of time?
MS. McCLURE: Objection. Miss -- foundation.
THE WITNESS: Repeat the

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question again just so I'm sure I understand what you're asking.
BY MR. PIFKO:
Q. Okay. Well, we'll -- let's -- the audit process failed to identify the issues that led to the registration suspension, correct?
MS. McCLURE: Objection. Assumes facts not in evidence.
THE WITNESS: Disagree.
MS. McCLURE: Foundation.
THE WITNESS: I disagree.
BY MR. PIFKO:
Q. Okay. So the audits did identify the issues that led to the registration suspension?
MS. McCLURE: Objection. Form.
THE WITNESS: We audit for compliance with the regulations, and we were -- the DC was complying with the regulations.
BY MR. PIFKO:
Q. What is your understanding

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about what the basis was for suspending the registration of the Orlando facility?
A. My understanding, it was for excessive sales to internet pharmacies.
Q. And that wasn't something that you were examining in connection with the audit process?
A. We --
MS. McCLURE: Objection to form. You may answer.
THE WITNESS: We -- we -- part of the audit process is to ensure that the -- the DC is reporting suspicious orders as required by the regulation.
BY MR. PIFKO:
Q. And did -- did the audits of the Orlando facility prior to the 2007 suspension, did they review the suspicious orders coming from that facilities -- coming from that facility?
A. As I recall, I believe the suspicious orders were reported centrally, from a central location. I

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don't think the DC actually sent those in. I think they may have been sent from headquarters. But I'm not positive. But it's a report.
Q. Okay. But the audit would identify orders from that facility that would have been included in the report?
MS. McCLURE: Objection. Assumes facts not in evidence. Foundation.
THE WITNESS: The audit just ensures that they're reporting.
BY MR. PIFKO:
Q. Okay.
A. The company is reporting from the DC.
Q. Okay. Just so just I understand the process. The process is for the DC to report them to the company. And then the company sends the report to the DEA?
A. No. That's incorrect.
Q. Well, you tell me. What's the process?

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A. The way I understand the process at that -- at that time, was the, I believe the central processing center was in, based in California. And they would generate the reports from there.

I just can't remember if they were sent to the DC, to the DC to send it to local office or whether they were sent directly to the local DEA office.

Q. Okay. So when you're conducting the audit and you are trying to ensure compliance with the suspicious order requirements, what are you looking at at the distribution center?

A. I can't recall what we were looking at. I think we may have checked that separately at corporate to make sure that the reports were being sent.

Q. Okay. And do you recall at any point while you were in your role as a compliance auditor, either a manager or as an actual auditor, checking the suspicious order reports from the Orlando

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facility?

A. I don't recall.

Q. Do you know if anyone else checked the suspicious order reports for that facility?

MS. McCLURE: Objection.

THE WITNESS: I don't recall.

BY MR. PIFKO:

Q. Can you recall anything about what would have been done to ensure that the facility was reporting and identifying suspicious orders?

A. I can't remember how we checked that.

Q. So it's your understanding that suspicious orders were part of the basis for the suspension of the registration in 2007?

A. That's my understanding.

Q. At the Orlando facility?

A. That's my understanding.

Q. And so do you believe that the audit process missed something that

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led to that suspension?

A. No.

Q. So you believe the audit process was fine even though the facility had its registration suspended?

A. Yes.

Q. Was there any disciplinary action taken against anyone in the compliance division or department as a result of the suspension of the Orlando facility's registration?

MS. McCLURE: Objection to form.

THE WITNESS: No, not that I recall.

BY MR. PIFKO:

Q. Did you undertake to make any modifications to the audit process as a result of the suspension of the Orlando facility's registration?

A. No.

Q. Did you know at that time whether any of the other distribution centers were potentially going to have

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their registration suspended for reasons that were similar to the Orlando facility?

MS. McCLURE: Objection.

THE WITNESS: At the time -- I'm sorry.

MS. McCLURE: That's okay. Objection to form.

THE WITNESS: At the time of the Orlando suspension?

BY MR. PIFKO:

Q. Yes.

A. No.

Q. You didn't know either way?

A. I didn't know whether any other DC had any concerns.

Q. But you weren't aware of any concerns at the Orlando facility at that time either, correct?

A. No.

MS. McCLURE: Objection. You may answer.

THE WITNESS: Could you repeat the question?

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BY MR. PIFKO:
Q. At that time, you weren't aware of any concerns at the Orlando facility either, correct?
MS. McCLURE: Objection.
THE WITNESS: That's correct.
BY MR. PIFKO:
Q. Did you change anything about the operations at the Orlando facility after its registration was suspended?
A. Not immediately after, no.
Q. Ultimately, you testified earlier you did supervise the development of an enhanced order monitoring program, correct?
A. That's correct.
Q. But that was company-wide correct?
A. That's correct.
Q. Okay. So --
A. Let me correct that. That's for the AmerisourceBergen Drug Company.

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Q. Okay. As opposed to --
A. Well, they have other subsidiaries. Yeah.
Q. Okay. Is it your opinion that there was nothing wrong with the audit process at the Orlando facility?
A. The audit process? No.
Q. Is it your opinion that there was nothing wrong with the suspicious order identification and reporting process at the Orlando facility?
A. Can you repeat that? I'm sorry.
Q. Yeah. Is it your opinion that there was nothing wrong with the process of identifying and reporting suspicious orders at the Orlando facilities at that time?
A. There was nothing wrong with it, no.
Q. Okay. Did you ever discuss the findings of the DEA that led to its suspension of the Orlando facility's

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registration with anyone?
A. Yes.
Q. With who?
A. Internally.
Q. Who internally?
A. In our department --
Q. Chris Zimmerman?
A. -- with our company, with Chris.
Q. Anyone else?
A. I can't remember. Pretty much everyone in our department, we discussed what we needed to do.
Q. How many people were in your department at that time?
A. Maybe a dozen. I'm not sure. I don't remember.
Q. And when you say your department, you mean the CSRA department?
A. That's correct.
Q. So let's talk about the order monitoring program that existed after the AmerisourceBergen Corporation merger, Amerisource and Bergen

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Corporation merger but before 2007. Okay?
A. Okay.
Q. You have an understanding about what that program was?
A. Basically, yes.
Q. Okay. What's your understanding of how that program worked?
A. I believe it was similar to the way I described the AmerisourceBergen report. There was a report that would be generated on a -- I think it was a monthly basis. I don't know if it was a daily. I don't remember if it was monthly. But it was built based on the customer's purchasing history and anything over a certain percentage would be flagged on this report. It was called a possible excessive purchase report, I believe was the name of it.
Q. And then that would be sent to DEA?
A. That would be sent to DEA, the individual field offices.

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Q. And did you -- did that order monitoring program use thresholds as we discussed earlier?
A. I don't believe it used thresholds, no.
Q. Just some percentage of the customer's prior month's orders?
A. For each -- for each drug item, I believe.
Q. When you say each drug item, what do you mean?
A. I think it was -- I don't want to speculate. Each drug.
Q. Okay. You understand that we're here in a -- in connection with a lawsuit about opioids, correct?
A. Yes. I understand that.
Q. Let's talk about that for just a minute.
A. Okay.
Q. Do you know what an opioid is?
A. Yes, for the most part, yes.
Q. What's your understanding of

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what an opioid is?
A. I believe it's basically any drug that was manufactured that contains some derivative of opium, I suppose.
Q. And so when we talked about drug types that are monitored, that can include opioids, correct?
A. Yes.
Q. Okay. Do you know what a type -- are there different types of opioids, to your knowledge?
MS. McCLURE: Objection to form.
THE WITNESS: I couldn't tell you.
BY MR. PIFKO:
Q. Okay. Have you heard the term hydrocodone?
A. Yes.
Q. Have you heard the term oxycodone?
A. Yes.
Q. Are those both opioids?
A. I believe so.

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Q. Do you know of any other types of opioids?
A. Like, morphine, I think. Yeah. There may be some others. Fentanyl. Fentanyl I think is synthetic.
Q. Okay. So those are all types of opioids, to your knowledge?
A. I believe so.
Q. Okay. And so when we talk about monitoring a customer's purchase history, do you know the level of -- are they just -- are they monitoring oxycodone purchases or hydrocodone purchases? Do you have any understanding of what specifically is being monitored?
MS. McCLURE: Objection to form.
THE WITNESS: Are you asking in relation to the enhanced program?
BY MR. PIFKO:
Q. No.
A. Or what time frame are we talking about here?

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Q. I made some visual aids to help us do that.
A. Okay.
Q. All right. Do you see that on the screen in front of you?
A. Yes, I do.
Q. It says, "Before DEA enforcement action (before June 22, 2007)."
So right now I'm talking about before that time period.
And I'm talking about the system that was in place after the merger. You don't know exactly when that system was implemented, right?
MS. McCLURE: Objection to form.
THE WITNESS: I don't know exactly, no.
BY MR. PIFKO:
Q. Okay. But the merger was in 2001?
A. Yes.
Q. Okay. So there were

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something, a company's order -- a customer's order history with respect to certain substances would be reviewed in connection with the suspicious order monitoring program?

MS. McCLURE: Objection to form. Under what program?

THE WITNESS: I guess that's my question. Are you talking about that period?

BY MR. PIFKO:

Q. Yeah, I'm talking about before the DEA enforcement action. I want to -- I want to understand what -- all attributes of the order monitoring program that existed in that time period.

A. I thought I described that to you.

Q. Okay. Well, so I was asking a follow-up question, so --

A. Okay. I'm sorry. You lost me a little bit.

Q. That's okay. We'll start over.

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How does -- how does an order get considered for inclusion in this report that we talked about? Actually let me just back up for a better record.

A. Okay.

Q. You -- you testified that there's a report that would be submitted to DEA. You said you didn't know if it was daily, weekly or monthly.

A. I can't remember.

Q. Okay. But there is some kind of report that identified certain types of orders and -- and was sent to DEA, correct?

A. That's correct.

Q. Okay. And then we are talking about the process for how an order is included in that report. Okay?

A. I understand. Yeah.

Q. Okay. So you said that the company looks at whether the order is over some percentage of the customer's prior order over that month. Is that

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correct?

A. Yeah. I think it looked at a three-month rolling average or something like that. I believe it was that.

Q. Okay.

MS. McCLURE: Mark, can we just clarify. You are talking about 2002 to 2007? Is that an accurate statement of the time period that you're addressing?

MR. PIFKO: Well, he doesn't know when the -- between --

MS. McCLURE: Is that document under the Elmo visible on the video camera?

Thank you.

MR. PIFKO: You can read my writing.

BY MR. PIFKO:

Q. Okay. So we are talking about post-AmerisourceBergen Corporation merger but before the enforcement action.

Everybody clear on the time

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period here?

A. Right.

Q. All right. So an order that exceeds some percentage of the customer's order history over the prior three months. You don't know the percentage. But that order gets included in this report to the DEA, correct?

A. That's my understanding.

Q. And when we talk about exceeding a percentage, a percentage of -- of what? That's what I'm -- that's what we were talking about earlier.

A. My understanding, it was -- it's a percentage above their average purchase of that drug over the three-month period.

Q. Okay. And so like there's different drugs, right? Like --

A. Mm-hmm.

Q. -- OxyContin is a drug. Duragesic is a drug.

A. That's correct.

Q. Is it your understanding

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that the -- in that program the actual purchase of that drug over the three-month period was measured or it was just within a drug family?
A. I think it was a specific drug.
Q. Okay.
A. I believe.
Q. Okay. And then if it exceeded some percentage, it would get included in this report to the DEA, correct?
A. That's my understanding.
Q. Do you know if there was any documentation other than the report to the DEA --
MS. McCLURE: Objection.
BY MR. PIFKO:
Q. -- about an order that was included in this report?
MS. McCLURE: Objection to form.
THE WITNESS: I don't think so.

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BY MR. PIFKO:
Q. If an order exceeded the percentage that you talked about, do you know if there was any due diligence conducted on that order?
A. When we're talk --
MS. McCLURE: Objection. You may answer.
THE WITNESS: When we are talking about this DEA approved program that was in place in 2002 to --
BY MR. PIFKO:
Q. I'm talking about this --
A. Okay.
Q. -- period that's on the slide in front of you.
A. Then what's the question again? I'm sorry.
Q. If an order exceeded the percentage that you talked about, do you know if there was any due diligence conducted on that order?
MS. McCLURE: Objection.

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THE WITNESS: I don't -- I don't know for sure.
BY MR. PIFKO:
Q. If there was any due diligence, do you know if there would have been any documentation of any due diligence that would have been conducted?
MS. McCLURE: Objection. Form.
THE WITNESS: I don't recall exactly when, you know, we did due diligence investigations, but they would have been documented if we did any.
BY MR. PIFKO:
Q. Okay. So if --
A. If and when we did any.
Q. -- if any due diligence -- okay. So if any due diligence investigation was conducted, it would have been documented, correct?
A. Yes. That's my understanding.
Q. And do you have an

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understanding about the company's practice of maintaining any such files?
MS. McCLURE: Objection to form.
THE WITNESS: Yes.
BY MR. PIFKO:
Q. What's your understanding of what the company's practice is?
A. We had a system we used called Law Track that we would document any -- any material work that we did in Law Track. So that's where it would have been documented.
Q. How long was that system in place?
A. I don't recall. I think it was in place during that period, some time in that period between 2002-2007.
Q. Do you think it was in place the entire time?
A. Couldn't tell you.
Q. Okay. Do you know how long the company retained its records in Law Track?

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A. Depends on the record. We -- we complied with the corporate record retention policy. So it depends on what records they are.
Q. And that's a written policy somewhere?
A. There's a -- there's a record retention policy in writing, yes.
Q. Okay. And you -- sitting here today, you don't know what that is?
A. I couldn't tell you specifics about every record -- every type record.
Q. Okay. Well, right now I'm talking about due diligence during the time period that's on the slide in here. Do you know what their record retention policy was for that?
A. I don't.
Q. Okay. Do you know who David May is?
A. Yes, I do.
Q. I'll represent to you that he testified, it's on the slide, but I'll

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just read it for you.
He testified: "Under our program and our policy and our understanding of the regulation, and what the regulator expects from us, is when we declare an order as suspicious, it's permanently rejected and never shipped."
Have you heard that?
MS. McCLURE: Mark, I'm going to ask the witness to step out for a moment.
MR. PIFKO: You can't just interrupt the deposition.
MS. McCLURE: Or you and I can step out, but I -- I'm happy to --
MR. PIFKO: I'm going to ask him -- I'm going to ask him my questions.
MS. McCLURE: Okay. So you're -- you've shown for the record -- you've shown --
MR. PIFKO: I've -- I asked him -- I read some testimony to

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him, and I asked him if he heard -- did you hear --
BY MR. PIFKO:
Q. Did you hear me read the testimony, sir?
MS. McCLURE: And I'm going to put my objection on the record, so please let me do that before you answer. Thank you.
You've excerpted deposition testimony of David May. You have excerpted eight lines of testimony with absolutely zero context as to what the question was, as to the time period, as to what this testimony is regarding.
There is absolutely zero information in here that allows him to discern what this is about.
So if you would like to continue down this line of questioning, you are free to do so.
MR. PIFKO: You can object,

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but you can't coach the witness and inject --
MS. McCLURE: That's why I asked you to step out or him to step out.
MR. PIFKO: Well, there's nothing we need to step out and discuss. I'm asking him -- okay. I just --
MS. McCLURE: You continued with your questioning. I was willing to have the witness step out to not receive a coaching objection.
MR. PIFKO: Okay. I'm going to ask him questions, and if -- if there's a proper basis for you to instruct him, then you can instruct him.
But other than that, I'm going to ask him questions and you can -- you can state objections. Of course, you're entitled to do that, but you can't coach the

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witness. All you can do, if you want to say -- I'm not going to tell you what your objection can be, but you can make a valid objection, and that's the end of it.

All right.

MS. McCLURE: So I'm going to --

MR. PIFKO: So you just made an objection. What -- you're not copying here.

MS. McCLURE: -- make my objection up on the record, of having a continuing objection to any questioning --

MR. PIFKO: Continuing, okay. Got it.

MS. McCLURE: -- regarding anything that's on this document, on any line here.

MR. PIFKO: All right.

BY MR. PIFKO:

Q. All I'm asking you is --

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okay. Do you know who David May is?

A. Yes, I do.

Q. Who is David May?

A. He is our VP of diversion control.

Q. Okay. He is the head of the diversion control program, correct?

A. That's correct.

Q. And he worked at the DEA for over 30 years, correct?

A. I don't know the time frame.

Q. Okay. But you know he had a long history with the DEA, correct?

A. That's my understanding.

Q. Okay. And I'm telling you, he testified, and I'm quoting: "Under our program and our policy and our understanding of the regulation, and what the regulator expects from us, is when we declare an order as suspicious, it's permanently rejected and never shipped."

Okay. Do you -- do you hear that?

A. I heard -- I heard what you

Page 120

said, yes.

Q. Okay.

MS. McCLURE: And I'm going to note my continuing objection.

BY MR. PIFKO:

Q. Do you have an understanding that if an order is identified as suspicious, that it cannot be shipped?

MS. McCLURE: Objection to form.

THE WITNESS: It depends on what time frame you are relating to and what you're referencing.

BY MR. PIFKO:

Q. Okay. Why does it depend on what time frame I'm referencing?

A. Because DEA has changed their policy over the years.

Q. It's your understanding that the DEA has changed its policy about whether you can ship a suspicious order?

A. It's -- that's my understanding. They've changed their belief.

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Q. I'll show you some more testimony.

Mr. Zimmerman testified: "CSA was passed in 1970, and the" -- "the federal regulations that regulate our responsibilities have not changed."

Mr. May testified: "I'm not familiar with any changes in the Controlled Substance Act."

MS. McCLURE: So.

MR. PIFKO: I haven't asked him a question. You can't just object.

MS. McCLURE: You're putting -- you are simply just putting documents up on the Elmo and making representations regarding what testimony was.

MR. PIFKO: Obviously my representations are correct, because they're quotes and I'm showing --

MS. McCLURE: You've represented that they're quotes.

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I'm sure that you would in fact put quotes on the document. So I'm not questioning that, although of course I don't have the ability to independently verify.
MR. PIFKO: Okay. I haven't even asked him a question. So you need to let me ask my questions.
MS. McCLURE: Mark, I'm trying --
MR. PIFKO: You're interrupting the deposition.
MS. McCLURE: You want the witness to leave?
MR. PIFKO: You're interrupting the question. If you take him out, you're coaching him and that's completely improper.
MS. McCLURE: No, I said do you want the witness to leave? I'm happy to take him out. I'm not coaching him.
MR. PIFKO: No. I would like to ask -- you're interrupting

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my ability to ask questions.
MS. McCLURE: Well, I'm going to continue --
MR. PIFKO: I haven't asked the question. All I did was tell him what other people testified to.
MS. McCLURE: You represented what other people testified to and that's --
MR. PIFKO: It's accurate and true representation. I'm allowed to do that.
MS. McCLURE: Mark --
MR. PIFKO: I could say do you think that David May testified that his favorite color was blue.
MS. McCLURE: Mark --
MR. PIFKO: Okay.
MS. McCLURE: You are representing --
MR. PIFKO: I haven't asked a question.
MS. McCLURE: You are

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representing answers up on the screen. We don't even know what the answer to the question was.
MR. PIFKO: It doesn't matter. You don't even know what my question is.
MS. McCLURE: Okay. So I'm going to make my --
MR. PIFKO: Okay. So let me ask the question.
MS. McCLURE: -- continuing objection --
MR. PIFKO: Okay, continuing objection all you want.
MS. McCLURE: -- to this entire line of questioning and you presenting the witness with deposition testimony that is absolutely without context as to time period, what the witness's capacity was in --
MR. PIFKO: Okay. You're coaching him by talking about time period and things like that.

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MS. McCLURE: I've offered him --
MR. PIFKO: You're telling him what to say. You're offering him guidance.
MS. McCLURE: -- that he could leave, and you haven't taken me up on that, so you're putting me in a position and forcing me to document my objection on the record.
BY MR. PIFKO:
Q. Okay. So I'm showing you again sir, Mr. Zimmerman -- you know who he is. He was your boss.
He testified, "The CSA was passed in 1970 and the federal regulations that regulate our responsibilities have not changed."
And Mr. May testified, "I'm not familiar with any changes in the Controlled Substance Act."
I asked you if you understood that if an order is identified

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as suspicious, if it can be shipped. And you said it depends on the time period, correct?
A. Okay. The regulations don't specify anything about shipping or not shipping suspicious orders.
Q. What's the basis for your understanding?
A. The regulation states that we have to design and operate a program to detect suspicious orders. As I recall, that regulation mentions nothing about whether they should be shipped or not.
Q. Okay. So do you disagree with Mr. May's testimony?
MS. McCLURE: Objection, form. Objection, misstates testimony.
THE WITNESS: Again, it has to be in context of the time frame that he's talking about.
BY MR. PIFKO:
Q. Okay. Do you agree with the

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statements I showed you for Mr. Zimmerman and Mr. May, that the Controlled Substance Act, the law and the regulations have not changed since 1970?
MS. McCLURE: Continuing to this line of questioning. Objection to form. Objection, misstates testimony.
THE WITNESS: Well I disagree with both, because one -- one was about regulations, and one was about the Act itself. And I know the regulations have changed -- changed several times over the years.
BY MR. PIFKO:
Q. Okay. And so do you believe there's been a change -- well, let me ask you a different question.
Is it your understanding that today, an order that's identified as suspicious, cannot be shipped?
A. Today?
MS. McCLURE: Objection to

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form. You can answer.
THE WITNESS: That's our policy today.
BY MR. PIFKO:
Q. I'm not asking what your policy is. I'm asking what your understanding of the regulations are.
A. The regulation is we are to designed and operate a system to detect suspicious orders and report them.
Q. Okay. So is it your testimony that -- okay. But is there some period earlier where you believe an order that was identified as suspicious could be shipped?
MS. McCLURE: Objection to form.
You may answer.
THE WITNESS: I don't know the exact dates of when that changed.
BY MR. PIFKO:
Q. But you believe that there was some date upon which it was changed?

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A. The policy of DEA changed about suspicious orders.
Q. And whether you could ship them?
A. I know as of 2007 we were told not to ship.
Q. Okay. Do you believe that there was any period prior to 2007 where you couldn't ship a suspicious order?
A. Not that I know of.
Q. Okay. And do you know what communication was from the DEA that told you that you couldn't ship a suspicious order?
A. I believe that was part of our negotiations in the settlement, part of the company's negotiations with DEA.
Q. Okay. So let's go back to this time period.
In the company's program, in this time period that's on the slide in the post merger before the settlement.
A. Okay.
Q. Was it the company's

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practice to ship an order that was identified as suspicious?
MS. McCLURE: Objection. Asked and answered. You can answer.
THE WITNESS: The company didn't identify it as a suspicious order. The company created a report and sent it to DEA of possible excessive orders.
BY MR. PIFKO:
Q. Okay. And was it the company's practice to ship all those orders that were identified as suspicious?
MS. McCLURE: Same objection.
BY MR. PIFKO:
Q. Or sorry, excessive.
A. In most cases they were shipped.
Q. Okay. If an order was not shipped, would that have been documented?
A. At that time, probably not.

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Q. Probably not?
A. Other than the system itself. The invoice would have reflected the product wasn't shipped.
Q. What's the difference between an excessive order and a suspicious order?
A. A possible excessive order would have been an order that would have exceeded those parameters that were built into the system to produce those reports.
Q. Okay. What's a suspicious order?
A. Anything that met those guidelines and the regulation that could be a suspicious order.
Q. Do you know what those guidelines are?
A. I couldn't recite it word for word, but you know, unusual quantity, size, frequency. I can't remember the rest of it. I don't know the regulation. I can't recite it word for word.
Q. If an order was excessive in

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that it exceeded the customer's prior three months' ordering history, would that be unusual?
MS. McCLURE: Objection to form.
THE WITNESS: Could be.
BY MR. PIFKO:
Q. So an order that was excessive can be suspicious, correct?
A. Could be.
Q. Is there anything that would make an order that's excessive not suspicious?
MS. McCLURE: Objection to form.
THE WITNESS: Yes.
BY MR. PIFKO:
Q. What would that be?
A. It could be an ordering error of some sort.
Q. Anything else?
A. There's a lot of reasons. The pharmacy could have been robbed and all of their drugs taken and, you know,

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they are ordering an unusually large quantity.
Q. Anything else?
A. Nope. Can't think of anything right off the top of my head.
Q. Did the company in this time period again on the slide, undertake any effort to investigate an order that was identified as excessive?
A. Yes. Somewhere after the August of 2005 time frame we started doing some additional due diligence.
Q. And what --
A. On customers and orders.
Q. Okay. What was the nature of that due diligence?
A. We started using a questionnaire for customers and site visits.
Q. Okay. How about with respect to a specific order though? Was there any due diligence that was conducted with respect to a specific order?

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MS. McCLURE: Objection to form.
THE WITNESS: There was, yeah. Those reports would be reviewed and we would do some additional due diligence based on some of those orders, those reports.
BY MR. PIFKO:
Q. What reports?
A. The reports that we've been talking about.
Q. The excessive order reports?
A. Yeah, the excessive order reports.
Q. Okay. And what was the nature of the due diligence that was conducted?
A. Again, we would do -- we would send out a questionnaire, and we would have -- actually have the salesperson go in, visit the site, and have the questionnaire filled out. I believe it was signed by the salesperson

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and the customer.
Q. What was in the questionnaire?
A. Questions that we were provided by DEA that they suggested that we ask to customers.
Q. Do you remember any of the types of questions?
A. There were 10 or 12 -- 10 or 12 questions. All related to internet pharmacy, to ensuring that a pharmacy wasn't engaged in that internet activity.
Q. Okay. And when did that start?
A. I would say late 2005. Sometime after August.
Q. I want to be clear that we are talking about the right time period. So I just wrote down what we talked about there.
Okay. So we're talking about this time period after August of 2005 but before the DEA enforcement action. Okay?

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A. The DEA enforcement action wasn't in June 2007.
Q. When was that?
A. I think the action was April, probably.
Q. Okay.
A. Yeah. That was the date of the settlement.
Q. Okay. Right. The company changed its practices in connection with the settlement, correct?
MS. McCLURE: Objection. Form.
THE WITNESS: We changed some practices after the August 2005 period and then changed them more after the enforcement action.
BY MR. PIFKO:
Q. Okay. Right. So that's why I'm book-ending this particular time period.
A. Okay.
Q. So the questions that you

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asked of pharmacies were designed to determine whether a pharmacy was an internet pharmacy?
A. Yes.
Q. Did they ask any other types of information?
A. When you say they, who are you talking of?
Q. The questionnaire.
A. I -- I don't remember the specific questions at the time.
Q. Okay. So we got on this track because what I was asking was how you determined whether an order that's excessive is -- is suspicious and whether there was any investigation or due diligence that would have been conducted on an order that was excessive. Okay?
A. Okay.
Q. So you testified that after August 2005 there were questions that were asked.
A. Mm-hmm.
Q. Were there -- those

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questions appear to be, as you're testifying, just designed to determine if something is an internet pharmacy, correct?

MS. McCLURE: Objection to form.

THE WITNESS: I don't -- you know, I don't know if it was just totally all the questions were totally specific to internet pharmacy. There may have been other questions just to -- to try to find out what, you know, what the pharmacy's practices were.

BY MR. PIFKO:

Q. What, in the questionnaire, would tell you if an order that was in the excessive order report was suspicious?

A. In the questions on the -- that wouldn't tell us an order is suspicious or not.

Q. Okay. What investigation, if any, did you conduct on an excessive

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order that would tell you whether it was suspicious?

A. To the best of my recollection and -- Eric would review those monthly reports. And we would -- we were looking for specifically at the time the drugs that were being used a lot by the internet pharmacy which was typically the hydrocodone combination products. And that would be the things that he would look for on those reports. And then he would generate an investigation of that customer based on reviewing those reports, as I recall.

Q. Other than hydrocodone combination products, was there any other feature of an order that you would look at to determine whether it was suspicious if it was an excessive order report?

A. Well, again the system, it looked at all controlled substances.

Q. An order is -- gets included under the order monitoring program as an excessive order. Are we on the same

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page? Okay?

A. An order that's generated on that report.

Q. Right.

A. Yes. Okay. It could be any controlled substance.

Q. Okay. In order to -- I'm asking you about types of investigations that were done on those orders to determine whether they were suspicious. And so you said that Eric looked at them to see if they had hydrocodone combination products in them. And that's -- and then if they did, you would do a further investigation, correct?

A. Well, I think that was a primary --

MS. McCLURE: Objection to form.

THE WITNESS: I'm sorry.

MS. McCLURE: That's okay.

THE WITNESS: I believe that was his primary focus, but he would look -- he would review the

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whole report is my -- as -- as I recall.

BY MR. PIFKO:

Q. And you are talking about Eric Cherveny, to be clear?

A. Yes.

Q. Okay. When did he start doing that?

A. Again, it was probably sometime after August of 2005. I don't remember the exact date that he started doing that.

Q. What's a hydrocodone combination product?

A. Again, not speaking -- speaking as a layman, not a pharmacist or -- or a chemist, but it's a hydrocodone in combination with some other noncontrolled product like acetaminophen or aspirin or something like that. That would be a combination product.

Q. And you had an understanding that those products were more likely to

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be the subject of diversion?
MS. McCLURE: Objection.
THE WITNESS: That was our understanding, that that was the drug that was most -- most likely used by the internet pharmacy.
BY MR. PIFKO:
Q. What was the basis of that understanding?
A. Communications from DEA.
Q. So the DEA told you that those products were of particular concern?
A. Yes.
Q. Prior to August 2005, was anybody looking at the excessive order reports to determine if they weren't suspicious?
MS. McCLURE: Objection to form.
THE WITNESS: I believe someone may have reviewed those, but they were -- they were sent to DEA.

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BY MR. PIFKO:
Q. You -- you believe they were reviewed by someone at AmerisourceBergen?
A. I don't recall.
Q. So you don't know either way?
A. I don't. Yeah, I don't.
Q. So it's your testimony that sitting here today, you don't know if anything was done to determine that an order in the excessive order report wasn't suspicious prior to August 2005, correct?
A. That's correct.
Q. If there was an investigation, it would be put in the Law Track system?
A. I would -- I would think so, yes.
Q. And Eric Cherveny was the person who was responsible for doing that?
A. After August of 2005, yes, he was doing those.

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Q. And he was the only one who was doing that?
A. I believe so at that time.
Q. And I want to clarify for the record. We're talking about every order that's in the excessive order report, correct?
A. That he reviewed?
MR. PIFKO: Yeah.
MS. McCLURE: Objection to form.
THE WITNESS: I believe that's correct.
BY MR. PIFKO:
Q. And prior to that time, an excessive order report would include an order from any customer, correct?
A. That's my understanding.
Q. Not just a potential internet customer, correct?
A. That's correct.
Q. And you don't have any recollection of whether anyone reviewed any excessive order reports prior to

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August 2005, correct?
MS. McCLURE: Objection.
THE WITNESS: I don't.
BY MR. PIFKO:
Q. Do you have an understanding about -- did you ever look at any of those excessive order reports?
A. Yes.
Q. How often did you look at excessive order reports?
A. I couldn't say. Not very often.
Q. About how many orders would be included in an excessive order report, on the times when you observed them?
A. I have no idea.
Q. Would you say 100 orders, more than 100 orders?
MS. McCLURE: Objection. Form. Asked and answered.
THE WITNESS: I couldn't say.
BY MR. PIFKO:
Q. Okay. A million orders?

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You have no idea about how many orders are in an excessive order?
A. I doubt it's a million.
Q. Okay. More than -- these were generated -- you don't know how frequently they were generated, monthly, weekly?
A. I believe they were monthly reports --
Q. Okay.
A. -- and they were generated for each distribution center and reported to DEA.
Q. Okay. And those were maintained in the Law Track system or how were those maintained?
MS. McCLURE: Objection. Form.
THE WITNESS: Those reports?
BY MR. PIFKO:
Q. Yeah.
A. I don't know.
Q. About how many occasions do you recall looking at the excessive order

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reports?
MS. McCLURE: Objection. Asked and answered.
THE WITNESS: I don't know. I just know what they look like.
BY MR. PIFKO:
Q. Let's talk about the duty to prevent diversion.
A. Okay.
Q. There's a quote here from the Code of Federal Regulations.
It says: "All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances."
MS. McCLURE: To the extent that that's not a full and complete representation of what the statute says, which I can't say off the top of my head whether it is or it isn't, then I object to the excerpt.
BY MR. PIFKO:

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Q. We talked earlier about the duty for a registrant to prevent diversion. Do you recall that?
A. Yes. Yes.
MS. McCLURE: Objection to form.
BY MR. PIFKO:
Q. Do you know what diversion is?
A. It's basically the act of diverting something from wherever it was intended in basic terms.
Q. Do you have an understanding of how the company seeks to prevent diversion?
MS. McCLURE: Objection. Form.
THE WITNESS: We seek to prevent diversion by complying with the regulations.
BY MR. PIFKO:
Q. Do you understand that -- do you have an understanding about why we want to prevent diversion?

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A. Yes.
Q. What's your understanding why we want to prevent diversion?
A. We want to prevent -- preventing diversion prevents controlled substances from getting -- getting outside of the legitimate channels that they're being intended for.
Q. And why do we want to do that? Why don't we want controlled substances to get outside of legitimate channels?
A. Because we don't want people that shouldn't be getting them to be getting them.
Q. Because they can abuse them?
MS. McCLURE: Objection.
THE WITNESS: They could.
BY MR. PIFKO:
Q. And they could become addicted to them?
A. They could.
MS. McCLURE: Same objection to the inclusion of partial

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testimony without context from other witnesses.
BY MR. PIFKO:
Q. David May testified: "I think there's been several actions that have been taken where it's becoming difficult for people to receive prescription opioids over time. And there are a number of different reasons why.
"I think that people who may be addicted and can no longer get a prescription opioid, can that cause them to go to the illegal market? I think it can. Has that caused folks to do that? I think it has."
Do you have an understanding that people can get addicted to a prescription and then seek those pills through the illegal market?
MS. McCLURE: Continuing objection to this line with this witness's testimony up on the screen.

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THE WITNESS: Can you repeat the question? And I don't really know what the question was that prompted his answer. So it's kind of difficult for me to --
BY MR. PIFKO:
Q. That's okay. I'm just asking you --
A. -- to comment on what he's stating.
Q. I'm not asking you to comment on what he's stating.
A. Okay.
Q. I'm just asking you if you agree that someone can start with a prescription opioid and then become addicted and then seek to fill their need of their addiction through illegal channels?
MS. McCLURE: Objection. Form.
BY MR. PIFKO:
Q. Do you agree with that?
A. I do.

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Q. You do?
A. I agree that they could.
Q. Did the DEA tell you at any point about the propensity of people to get prescription opioids and then turn to the illegal market?
A. I don't recall that specifically, no.
Q. I'm going to hand you an exhibit that was produced to us a couple of days ago.
MR. PIFKO: Just a minute. My colleague is getting that for you.
(Document marked for identification as Exhibit ABDC-Mays-1.)
BY MR. PIFKO:
Q. I'm handing you what's marked as Exhibit 1. It's a document that's Bates-labeled ABDCMDL00315887 through -- I have the copy in front of me that was e-mailed that doesn't have the Bates number. My colleague is getting

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the last Bates numbers. While he's doing that, please take a moment to review this document.
A. Okay.
Q. ABDCMDL00315887 through 315900.
Let me know when you're done reviewing it.
A. Okay.
Q. You're done reviewing it?
A. Mm-hmm. Yes, sir.
Q. Okay. Have you seen that document before?
A. I believe so.
Q. Can you tell me what it is?
A. It looks like a slide presentation that was given to me in August of 2005 the DEA had forwarded.
Q. Is your name on here?
A. I don't think so.
Q. You said -- I just said that, because you said it was given to you.
Do you recall being --

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participating in this meeting?
A. Yes. I represented AmerisourceBergen in that meeting.
Q. Okay. Who was at this meeting besides you?
A. It was only myself and Mike Mapes from DEA. And I don't recall the gentleman's name, but I think he was their chief counsel.
Q. If you go to the last --
A. He was an attorney.
Q. -- the last page.
A. Mm-hmm.
Q. It's got Mike Mapes, and it's got Kyle Wright. Is Kyle the other person that was there?
A. No.
Q. Okay.
A. I don't think Kyle --
Q. It was someone other than Kyle?
A. I don't think Kyle was in the room.
Q. Okay. You don't remember

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the other person's name?
A. No, I don't. He was an older gentleman, and he was an attorney. But I don't remember his exact title. He was an attorney with DEA.
Q. Was this the first time that you met with the DEA as a representative of AmerisourceBergen Corporation?
A. No, I'm sure I met with DEA in the past before that.
Q. What were other types of occasions where you would have met with DEA?
A. I remember when I was in Chattanooga meeting with them in Nashville related to the -- some concerns they had following an inspection, I believe.
Q. That was back in the '70s?
A. Yeah. Yeah. '70s, early '80s, maybe.
Q. Okay. How about more recently, but prior to this meeting?
A. Just me meeting with DEA --

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Q. You and anybody else meeting --
A. -- or are you talking about --
Q. -- with the DEA in an official capacity --
A. They --
MS. McCLURE: Let him finish.
THE WITNESS: Sorry.
MS. McCLURE: Let him finish, and then you can talk. Otherwise she has trouble getting it all down.
THE WITNESS: I'm sorry.
BY MR. PIFKO:
Q. Okay. So my question is, prior to this meeting with DEA in August 10, 2005, if you had met with them in an official capacity before then.
A. Not other than that situation I told you about. I may have met with them -- anytime we had an informal hearing or something like that,

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and I can't remember if it was before that. I went to an informal hearing in Atlanta, based on the Atlanta DC. They had concerns about order forms during an inspection. Again, the previous one in Nashville. Other than that not in an official capacity that I can recall.
Q. When was the Atlanta meeting that you can recall?
A. I don't remember. It was probably early 2000s, something like that.
Q. So this specific meeting, how did it come about, did someone call you up and say --
A. This one?
Q. Yeah.
A. What prompted the meeting?
Q. Yeah.
A. Kyle Wright approached me at an H -- I believe it was an HDA conference and asked me if I would come and meet with them. And I said sure.
Q. When was that conference?

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A. It must have been earlier in 2005.
Q. Did he tell you what he wanted to meet about?
A. I don't recall specifically. He just asked if we would come and meet with them.
Q. Okay. And so were you concerned about why he was asking you to meet with him?
A. No. He didn't say anything to me that concerned me about the meeting. That's why I went by myself.
Q. So you went to DEA headquarters for this meeting?
A. That's correct.
Q. And then they gave you this slide presentation?
A. I think they just gave me the printed slides in a binder.
Q. Okay. And --
A. And discussed them.
Q. Okay. Did you discuss the slides in the meeting?

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A. I believe so.
Q. How long was the meeting?
A. It wasn't real long. Maybe, maybe an hour. Maybe less.
Q. So the first slide on the document is internet pharmacy data. Do you see that?
A. Yes.
Q. Was the meeting focused on specifically internet pharmacies?
A. Yes.
Q. When you saw Mike Mapes at an had meeting, how -- and he invited you to this meeting -- did I get that right?
MS. McCLURE: Objection to form.
THE WITNESS: That's incorrect. It was Kyle Wright.
BY MR. PIFKO:
Q. Oh, sorry. Okay. Kyle, how did he know to approach you to request a meeting with AmerisourceBergen?
A. I don't know. I guess he -- he was --

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MS. McCLURE: Objection to form. You can answer.
THE WITNESS: -- at the conference. It's an annual conference, and often DEA is invited to attend and present.
And I don't know how he found out who I was, or how he approached me. But he -- he was waiting outside of one of the sessions I was in and approached me when I walked out.
BY MR. PIFKO:
Q. Okay. And you had never met him before?
A. Never met him before.
Q. And he just introduced himself and said hi, I'm from the DEA, I would like you to come to a meeting?
A. Yeah. It was a very friendly exchange.
Q. Okay. So then you go to this meeting. You said it's about an hour and a half?

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A. No, I said it was about an hour or less.
Q. Oh okay. And you just flipped through the slides with them?
MS. McCLURE: Objection.
THE WITNESS: I don't recall. I just remember they gave me a binder.
BY MR. PIFKO:
Q. This document has two slides per page. But going to the second page, third slide --
A. Okay.
Q. -- it says "Issues to Consider."
Do you see that?
A. Yes.
Q. What are these -- do you have an understanding of what these issues to consider are for?
A. Yeah. My understanding was issues to consider in identifying -- it was related to internet pharmacy, things to look at, things to take into

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consideration when reviewing a pharmacy.
Q. And did you understand --
let's go back to the first slide.
A. Okay.
Q. There's a slide that says
"Internet Pharmacies."
A. Mm-hmm.
Q. Do you see that?
A. Mm-hmm, yes.
Q. And it talks about some
attributes of an internet pharmacy.
A. Correct.
Q. Do -- do you have an
understanding about why the DEA was
concerned about internet pharmacies?
A. Yes.
Q. What -- what was your
understanding?
A. Well, my -- my understanding
from this meeting was that it was
becoming a big problem.
Q. How so?
A. Because people were able to
purchase specifically hydrocodone

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combination products and -- and other
drugs over the internet just based on a
questionnaire and not seeing a doctor.
Q. Were you aware of this
concern about internet pharmacies prior
to this August 10th meeting, 2005 meeting
with the DEA?
A. I don't -- I think this was
the first time that it was brought to my
attention, that it was a problem.
Q. You don't recall ever
discussing concerns about internet
pharmacies within AmerisourceBergen prior
to this time?
A. No, I don't.
Q. After attending this
meeting, did you discuss the nature of
these slides and the discussion with the
DEA with anyone at AmerisourceBergen?
A. Yes.
Q. Who did you discuss it with?
A. My boss, Chris Zimmerman.
Q. Anyone else?
A. I can't remember if anyone

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else was involved in the discussion.
Q. Was it as a result of this
meeting that you implemented the process
where Eric Cherveny would look for
hydrocodone combination products in the
excessive order reports?
A. Yes.
Q. Did you talk about this
meeting with Eric Cherveny?
A. I don't remember talking to
him specifically about this meeting. But
that's when we put those procedures in
place.
Q. Did you implement any other
procedures as a result of this meeting?
A. Not that I -- not other than
previously stated.
Q. The only procedure I'm --
for clarity of the record, that I'm aware
of, is looking for hydrocodone products
in the excessive order reports. Were
there any other procedures that you
implemented as a result of this meeting?
MS. McCLURE: Objection to

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form.
THE WITNESS: The -- the
enhanced due diligence.
BY MR. PIFKO:
Q. What specifically --
A. Of customers.
Q. And what specifically was
that?
A. The questionnaire and the
site visit.
Q. Okay. The questionnaire
that we talked about earlier that you --
you would occasionally send these
questionnaires to customers after
August 2005, is that correct?
A. That's my -- that's my
understanding and my recollection.
Q. And the purpose of that
questionnaire was to try to learn about
whether a pharmacy might be engaging in
internet pharmacy conduct?
MS. McCLURE: Objection to
form.
THE WITNESS: That was the

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primary focus.
Sorry.
BY MR. PIFKO:
Q. There's a bunch of court cases discussed in here. Supreme Court case on the third page, and then there's a pharmacy mentioned here with a cite to the Federal Register. Another pharmacy and a Federal Register cite. Another Supreme Court case. Do you recall what -- what they told you when you were looking at these court cases and Federal Register cites?
A. No, I do not.
Q. Sitting here today, do you understand what the significance of these court cases, two court cases and the two pharmacies, why they are included here?
MS. McCLURE: Objection to the form.
THE WITNESS: I don't recall -- I don't remember these cases or specifics of them.
BY MR. PIFKO:

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Q. Do you remember reading any -- did you -- after the meeting, did you read the Federal Register cites that are here about these pharmacies?
A. I don't remember.
Q. Do you believe you would have shared these -- those Federal Register cites with anyone at AmerisourceBergen?
A. I'm sure I did, because I was given binders to take back.
Q. You were given more than one copy?
A. I think I was given two or three.
Q. Okay. Did they tell you what they wanted you to do with these extra copies?
A. I think they just offered them as extra copies.
Q. Okay. And who did you give it to?
A. I couldn't tell you specifically.

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Q. Did you give one to Chris Zimmerman?
A. I couldn't -- I don't remember specifically who I gave them to.
Q. You think you gave them to somebody?
A. I'm sure I did.
Q. Let's go to Page 7 of the document.
A. Okay.
Q. It talks about suspicious orders. Do you see that here?
A. Yes.
Q. Did you discuss suspicious orders with them in connection with this meeting, the DEA?
A. I don't remember specifically that.
Q. Do you recall the DEA telling you at this time that you had to report suspicious orders when discovered?
A. I don't recall the discussion.
Q. Do you recall the DEA

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telling you that reporting a suspicious order to the DEA does not relieve the distributor of the responsibility to maintain effective controls against diversion?
A. I don't recall that discussion.
Q. Did you have an understanding that that was a requirement --
A. Yes.
Q. -- at that time?
MS. McCLURE: Object to the form.
THE WITNESS: Yes, I understand the requirement.
BY MR. PIFKO:
Q. What efforts did AmerisourceBergen have in place at that time to identify suspicious orders?
A. We had the same report that we discussed earlier that was approved by DEA.
Q. Anything else?

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A. Be excessive suspicious order report. And that's what we reported to DEA.
Q. Anything else?
A. That -- anything else that we do to --
Q. At that time --
MS. McCLURE: Were you finished answering his question?
THE WITNESS: No. I guess I want him to repeat the question, the last question. When you say anything else, related to what?
BY MR. PIFKO:
Q. Again, talking about this time period that's up on the slide here, before the suspension of the Orlando facility's registration, but after the AmerisourceBergen merger. Was there anything else in place besides the suspicious excessive order reports that we talked about?
A. Sure. Yeah. Yes.
Q. To identify suspicious

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orders?
A. There's other things in place that the regulations require us to do.
We make sure that any pharmacy that we distribute controlled substances to is properly licensed by the state and registered by DEA.
Q. How did you do that?
A. The requirement is that we make a good faith effort to ensure that they are licensed and registered with DEA, and we typically would -- this was before you could check websites to verify it, we would get copies of their licenses to verify that they were properly licensed.
Q. At what stage in the process would you get copies of their license?
A. Upon onboarding of the customer.
Q. Did you ever engage in any effort to check their license after you onboarded them?

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A. Yes. At the time of renewal.
Q. What do you mean renewal? What's that?
A. Well, the customer is required to renew their license and required to renew their DEA registration.
Q. Okay.
A. We systematically track that.
Q. So when you onboard a customer, you mark the date of when they were required to renew their registration?
A. It's loaded in the system.
Q. And then you would check at some point after that to see if they still had a valid registration?
A. The system monitored it. Once they hit an expiration date, the system would automatically block orders, depending on which license it is.
Q. Anything else that you would do to check to see if a registration was

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revoked or suspended?
A. Yes. We'd get a NTIS report that gets reviewed every -- I believe it's every month, and it basically is a -- information about all the customers, DEA registration, it gets matched -- it gets matched up with our customer file and flags any discrepancies, and they get investigated. That's one way.
And DEA also sends out a -- they used to mail it out, like a quarterly retired list of any registered -- registration numbers that had been revoked or retired, and that was required to be reviewed.
Q. And all those things were done during this time period?
A. As I recall, yes.
Q. Okay. So you had the excessive suspicious order reports, the checking of the registration. Anything else that you did to identify suspicious orders?
A. Again, we had the posting in

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the vault and cage with the base quantity levels that -- so we didn't want to totally rely on systems. We wanted to make sure that people had an opportunity to report any orders that looked suspicious to them to their supervisor.

Q. Okay. Anything else?

A. I can't think of anything else. Could be.

Q. Going back to Exhibit 1. I'm on Page 7.

A. Okay.

Q. It looks like you are there.

A. Yes, sir.

Q. The second slide on Page 7 there says, "Reporting a suspicious order to DEA does not relieve the distributor of the responsibility to maintain effective controls against diversion."

Do you see that?

A. Yes, I do.

Q. Did you have an understanding that that was a requirement at that time?

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MS. McCLURE: Object to form.

THE WITNESS: I understood the regulation, yes.

BY MR. PIFKO:

Q. What do you understand that to mean?

A. That we still have to have effective controls to prevent diversion. We're required to maintain effective controls.

Q. And that even if you report an order to the DEA that's suspicious, you still need to do something to make sure it's not diverted?

MS. McCLURE: Object to form.

THE WITNESS: We just understand that we're -- it doesn't relieve us of our responsibility to maintain effective controls.

BY MR. PIFKO:

Q. So reporting it alone is not

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enough necessarily to control diversion, correct?

MS. McCLURE: Object to form.

THE WITNESS: Again, reporting a suspicious order doesn't relieve us of our responsibility to have effective controls to prevent diversion, which we have in place, we had in place.

BY MR. PIFKO:

Q. So if diversion occurs even though you reported an order, you're still responsible, correct?

MS. McCLURE: Object to the form.

THE WITNESS: Can you repeat that again?

BY MR. PIFKO:

Q. You said reporting a suspicious order doesn't relieve us of our duty to have effective controls against diversion. So I'm just

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clarifying. Merely reporting it, if an order is suspicious, and you report it and it gets diverted, you're still responsible, correct?

MS. McCLURE: Object to the form. Calls for a legal conclusion.

THE WITNESS: I disagree.

BY MR. PIFKO:

Q. Okay. Why do you disagree?

A. How can we be responsible for a pharmacy or -- that diverts controlled substances after they've received them from us?

Q. Well, you just said that reporting -- even if you report it, you still have responsibility to prevent diversion, correct?

A. No. We have a responsibility to maintain effective controls against diversion. So we have -- we had the controls in place. That doesn't mean diversion is not going to take place at some point.

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Q. Okay. So if you report an order though, it's still your job to maintain effective controls to prevent diversion of that order, correct?
A. I think we keep saying the same thing, yes.
Q. Do you agree?
MS. McCLURE: Object to the form.
THE WITNESS: We have a responsibility to maintain effective controls against diversion. That's the regulation.
BY MR. PIFKO:
Q. And so it's your job to maintain effective controls against diversion regardless of whether you report an order as suspicious, correct?
A. That's correct.
MS. McCLURE: Mark, at some point, we've been going for almost an hour and a half. Take a break for lunch.
MR. PIFKO: Yeah, we can

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take a lunch break as soon as we finish this document.
BY MR. PIFKO:
Q. Let's go to Page 8, the next page?
A. Okay.
Q. The next slide says "Suspicious Orders."
A. Mm-hmm.
Q. Do you see that? It says DEA cannot tell a distributor if an order is legitimate or not. Distributor must determine which orders are suspicious and make a sales decision.
Do you see that?
A. Yes, I do.
Q. Do you have an understanding of what that means?
A. Yes.
Q. What's your understanding of what that means?
A. My understanding is we're required to develop a system to detect suspicious -- and report suspicious

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orders. And we can't rely on DEA to tell us what should be reported and what shouldn't.
Q. It's not the DEA's job to tell you if an order is suspicious, correct?
MS. McCLURE: Object to the form.
THE WITNESS: No, it's not DEA's job to tell us what's suspicious.
BY MR. PIFKO:
Q. And it's not DEA's job to maintain effective controls against diversion, correct?
MS. McCLURE: Object to the form.
THE WITNESS: Well, I think DEA has a role to prevent diversion. I think that's why they're in place.
BY MR. PIFKO:
Q. But it's your job as a registrant to maintain effective controls

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to prevent diversion, correct?
MS. McCLURE: Object to the form.
THE WITNESS: Sorry. That's a regulatory requirement.
BY MR. PIFKO:
Q. This next bullet point here, "Distributor must determine which orders are suspicious and make a sales decision."
Do you see that?
A. Yes, I see it.
Q. What do you understand that to mean?
A. I understand that to mean that we have to make our own decision about what's suspicious and what to report.
Q. And if an order is suspicious, to make a decision on whether to sell it?
A. That's kind of what it says. That's pretty much what it says.
Q. You understand that to mean

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if an order is suspicious, if you determine that an order is suspicious, you need to make a decision not to sell it?

MS. McCLURE: Object to the form.

THE WITNESS: No.

BY MR. PIFKO:

Q. You don't understand that to mean that?

A. I understand that it means we have to -- it's up to us to determine what's a suspicious order and then we make a business decision about whether to fill the order or not.

Q. Do you believe that selling an order that you've determined to be suspicious is inconsistent with your duty to prevent diversion?

MS. McCLURE: Object to the form.

THE WITNESS: No.

BY MR. PIFKO:

Q. So you don't believe that if

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you sell an order that's suspicious, you could be contributing to diversion?

MS. McCLURE: Object to the form.

THE WITNESS: I don't know that diversion takes place just because an order is reported as suspicious. It doesn't mean it's diversion.

BY MR. PIFKO:

Q. The next series of slides are about examples of pharmacies. The copy we have is essentially illegible with these pictures. But do you have an understanding about what was portrayed in these slides, and did you discuss it at the meeting?

MS. McCLURE: Object to the form. Compound.

THE WITNESS: I don't recall.

BY MR. PIFKO:

Q. I'm talking about from Pages 9 to 11.

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A. I don't recall specific discussions about these slides.

Q. Do you recall there being discussion about what attributes are of an internet pharmacy and investigations that you could conduct to determine whether a pharmacy is an internet pharmacy?

MS. McCLURE: Object to the form. Compound.

THE WITNESS: The first part of your question, I understand that this was a discussion of the attributes of what could be an internet pharmacy.

BY MR. PIFKO:

Q. And did you understand that the DEA expected you to conduct investigations to determine if your customers were internet pharmacies?

A. As I recall, they gave us -- they are not part of this attachment. But they gave us some questions that they suggested that we ask. I don't think it

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was called investigations. But they -- they gave us some questions that they felt like would be -- that they recommended we ask of our customers.

Q. And those were included in your questionnaire?

A. Yes. As I recall.

Q. Let's go to Page 12.

A. Okay.

Q. Second slide.

A. Okay.

Q. Well, let's go actually to the first slide, Popular Internet Drugs. Do you see that?

A. Yes.

Q. Hydrocodone. Do you see that?

You have an understanding -- we talked about hydrocodone earlier.

A. Mm-hmm. Right.

Q. Do you recall discussing these drugs being of concern?

A. Yes.

Q. Why is that?

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A. Why -- why they were drugs of concern?
Q. Yeah.
A. As I recall, those were the more common drugs that were being filled from internet activity.
Q. And those drugs were potentially being subject to abuse?
A. Any controlled substance is subject to abuse, yes.
Q. But these were of particular concern?
A. I think these were -- my understanding is these were particularly of concern because these were the popular internet drugs, is what I recall.
Q. Next slide talks about "prescriptions not written in the usual course of professional practice are not valid."
Do you have an understanding of what -- what that means?
A. Yes, I do.
Q. What does that mean?

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A. It basically means that the DEA expects a prescription to be written based on a face-to-face doctor-patient relationship.
Q. And so did the DEA expect you to assess whether your customers were filling prescriptions that may have been generated through an invalid professional practice?
A. I don't think they looked at that as our role. They looked at that as -- they -- that's why they gave us some of these things, characteristics to look for, and questions to ask. But not -- not to know whether -- you know, how the prescriptions were written.
Q. But they wanted you to consider whether the prescriptions were not being written face-to-face as part of your assessment of these issues?
MS. McCLURE: Object to the form. Misstates prior testimony.
THE WITNESS: That's the -- that's the pharmacies'

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corresponding responsibility.
That was part of a question -- I think that was part of the question in our questionnaire. If they answered that they didn't fill them based on that, then that was a red flag for us, that it can be an internet pharmacy.
BY MR. PIFKO:
Q. And the DEA also told you that drugs dispensed pursuant to invalid prescriptions are not for legitimate medical purposes, the drugs are diverted?
A. I see it, yes.
Q. That's what they told you?
A. I don't recall the conversations. I just see what's in the slides.
Q. They communicated that to you --
A. It was 13 years ago.
Q. Okay. They communicated that to you via these slides for sure

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though, right?
A. Yes.
Q. And they said that's not limited to internet pharmacies as well, correct?
A. That's what it says.
Q. Going to the next page, Page 13.
A. Okay.
Q. You see here it says, "A pattern of drugs being distributed to pharmacies who are diverting controlled substances demonstrates the lack of effective controls against diversion by the distributor."
Do you see that?
A. I see it.
Q. Okay. So again, the DEA communicated to you at a minimum through these slides that if you as a distributor are selling drugs in a pattern to pharmacies who are diverting them, that is evidence of a lack of effective controls against diversion. Agree?

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MS. McCLURE: Object to the form.
THE WITNESS: Let me read this again. Yeah, my read of this is if there is a pattern that a distributor is -- is knowingly distributing drugs to a pharmacy that's diverting them would be a lack of effective controls.
BY MR. PIFKO:
Q. Where does it say knowingly?
A. Well, that's just my interpretation --
Q. Okay. But it doesn't say that, right?
A. -- pattern -- no, it doesn't say that.
Q. Okay. So what they communicated to you was that simply having a pattern of drugs being distributed to pharmacies who were diverting controlled substances demonstrates the lack of effective controls against diversion by the

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distributor, correct?
MS. McCLURE: Object to form.
THE WITNESS: That's what it says, "a pattern of drugs being distributed to pharmacies."
BY MR. PIFKO:
Q. And they gave this to you, correct?
A. As I recall, yes. Yes.
Q. And then it says here, "The DEA registration of the distributor could be revoked under public interest grounds."
Do you see that?
A. I see that.
Q. Do you have an understanding about what that means?
A. Yes, I do.
Q. What does that mean?
A. That if a distributor is -- if they feel that the distributor's actions are against the public interest, then they could revoke the registration.

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Q. Okay. Do you have an understanding about why the distributor's action is supposed to be in the public interest?
A. Yes.
Q. Why is that?
A. Well, they want to ensure that drugs are not diverted into illegitimate channels.
Q. And that's -- as a distributor, that's your job, among other things, to make sure that doesn't happen, right?
MS. McCLURE: Object to the form of the question.
THE WITNESS: To have effective controls in place to prevent it.
BY MR. PIFKO:
Q. The next slide here, it says, "Any distributor who is selling controlled substances that are being dispensed outside the course of professional practice must stop

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immediately."
Do you see that?
A. I see that.
Q. Do you have an understanding about what that means?
A. Yes --
Q. What's your understanding?
A. -- yes.
If -- if we're dispensing -- if we're distributing controlled substances and we find out that they are being dispensed outside of the course of professional practice, then we should stop distributing to them once we become aware of it.
Q. And why is that?
A. Because that would be an indication there could be diversion.
Q. Next bullet point there. "DEA cannot guarantee that past failure to maintain effective controls against diversion will not result in an action against a distributor."
Do you see that?

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A. Yes, I do.
Q. Do you have an understanding about what that means?
A. I can tell you what I think it means.
Q. Well, they communicated this to you at the time, they gave you this presentation, correct?
A. Yes.
Q. Did you read it?
A. Yes.
Q. Okay. Did you tell them you didn't understand what that meant?
MS. McCLURE: Object to the form.
THE WITNESS: I can only tell you what I think it means. I can't remember what they said 13 years ago.
BY MR. PIFKO:
Q. I'm just asking you if you recall upon receiving this, telling the DEA that you didn't understand what any of this meant?

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A. I don't recall.
Q. What's your understanding of what the second bullet point there means, "DEA cannot guarantee that past failure to maintain effective controls against diversion will not result in an action against a distributor"?
Will -- will -- yeah.
What's your understanding what that means?
A. Well, I think what it means is if you had a failure and even though you may have corrected that, and remedied the situation, that doesn't mean later on that they discover it and they could not come back and take action against you for that past failure.
Q. The next page. Top slide.
A. Okay.
Q. It talks about -- it says, "DEA is going to meet with other distributors. Tell you to provide this information to your employees at your request." And they say they are going to

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meet with industry groups. Do you see that?
A. Yes, I do.
Q. Do you recall discussing that?
A. No, I don't recall discussing it.
Q. Do you recall them telling you they were going to meet with other distributors?
A. I recall them saying that they will be meeting with -- with other distributors, yes.
Q. What did they say about that?
A. I think they called it their distributor initiative. And they were going to start meeting with all the distributors.
Q. Did they tell you specifically any other distributors they were going to be meeting with?
A. No.
Q. You were part of the

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Healthcare Distribution Alliance, correct?
A. Our company is a member, yes.
Q. But you specifically participated, correct?
A. Yes.
Q. Did you, at this time -- did they present anything to -- through the had about this issue?
MS. McCLURE: Objection to form.
BY MR. PIFKO:
Q. I know it was a predecessor name at that time, but...
A. I can't remember precisely. But DEA was often invited to meet with had and had met with DEA over several topics.
MR. PIFKO: All right. Let's take a break.
THE VIDEOGRAPHER: We are going off record. The time is 12:47.

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(Lunch break.)
THE VIDEOGRAPHER: Going back on the record. Beginning Media File Number 3. The time is 1:28.
BY MR. PIFKO:
Q. Welcome back.
I want to start talking now about the, as you said, oversight of the development of the enhanced ordering monitoring program.
So that occurred after the DEA settlement, correct?
A. During the settlement process, yes.
Q. Okay. As part of the, another one of these little slides for you, so we are on the same page.
A. I'm not seeing it yet.
MS. McCLURE: It's okay.
THE WITNESS: Here it is.
MS. McCLURE: Again, your date there is the settlement date.
MR. PIFKO: That's the date

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of the agreement.
BY MR. PIFKO:
Q. Okay. So let's talk about -- so the DEA settlement occurs. And you -- at what point did you get tasked with overseeing the development of the enhanced order monitoring program?
A. Almost from -- it was while the negotiations were going on for the settlement.
Q. Let's talk -- so you said, at this 2007 time period, I asked you earlier how many employees were in the CSRA. Do you remember --
A. Yeah.
Q. -- how many employees there were around that time?
A. Oh, no, I don't know the exact number specifically.
Q. Okay. At one point you said 13 or 14.
A. No, I think I said 12.
Q. Okay.
A. I said about a dozen --

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Q. Okay.
A. -- but that's a guess.
Q. Okay?
A. That might be on the high side even.
Q. You think it might have been less than 12 at that time?
A. It could have been. I just --
Q. Definitely less than 20?
A. When you say CSRA department, I can't remember exactly.
Q. In the hierarchy of things, Chris Zimmerman was at the top of the CSRA, correct?
A. That's correct.
Q. And then you were a direct report to Zimmerman, correct?
A. That's correct.
Q. Did anyone else, other than you, have a role in the diversion control aspect of the CSRA?
A. Yes.
Q. Who else in the CSRA at the

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time of the DEA enforcement action was engaged in performing diversion-related functions?
A. You mean at the time of the action or after we started?
Q. Well, good question.
Before you added anybody after the action.
MS. McCLURE: Object to the form.
THE WITNESS: So it was pretty much everyone at the corporate office, in the department, was engaged. We pretty much engaged everyone that we could. Kind of all-hands-on-deck.
BY MR. PIFKO:
Q. But -- no, I mean -- okay, but before you even knew about the enforcement action, just day to day who in the CSRA had responsibilities that included diversion control?
A. Well, at that time it was

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all under regulatory, which was, you know, I was in charge of the regulatory side of our department. And then Eric was -- Eric reported to me at that time as one of my regional directors. And he also had that responsibility that we discussed earlier.

Q. So you were the top person at that time on diversion control issues, correct?

A. Yes.

Q. And you had Eric helping you out underneath you?

A. Mm-hmm, that's correct.

Q. Anyone else?

A. Not that I can recall.

Q. Okay. And so, then you get tasked with overseeing the development of the enhanced order monitoring program, because at that time you're the senior-most diversion control person, correct?

A. That's correct.

Q. So how did you first learn

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about the enforcement action?

A. I got a call from the distribution center manager in Orlando. And he told me the DEA was there and they were putting a padlock on their cage, that they were suspending their registration.

Q. And do you remember the approximate date of when that happened?

A. Approximate? Yeah, it was around April 21st, 22nd, something like that, of 2007. It was in April. I think it was 21st.

Q. Did you speak to anyone at the DEA immediately upon learning of that information?

MS. McCLURE: Object to the form.

THE WITNESS: Not immediately. No.

BY MR. PIFKO:

Q. What was the first action you took when you learned that?

A. I told my boss.

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Q. Zimmerman?

A. Yes.

Q. And you had a discussion with him that the license at the Orlando facility had been suspended?

A. That's correct.

Q. And what did he tell you?

A. I can't remember specifically. I think we went over and told his boss who was the general counsel.

Q. And then did you contact DEA at some point after that?

A. I didn't, no, not personally.

Q. Do you know if Mr. Zimmerman did?

A. Mr. Chou, general counsel, called -- called them from his office, and Chris and I, I believe, were both in the office at the time.

Q. And did the DEA tell you why they suspended the registration at that time?

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A. I don't remember exactly what they said, because John Chou was on the phone with them.

Q. Did they send you any documentation after suspending the registration?

A. Not that I recall.

Q. So at what point in the process did Mr. Zimmerman tell you that you were going to be in charge of developing an enhanced order monitoring program?

A. It was probably after -- a week later after meetings with DEA to determine what the issue was and what they wanted us to do.

Q. Did you participate in those meetings?

A. No.

Q. No?

A. No.

Q. Do you know who did?

A. I went down the first day. And I don't even recall what was

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discussed in that meeting. But I wasn't involved in any of the negotiations after that.
Q. You said you went down to Orlando?
A. No. To DEA headquarters.
Q. Okay. And who did you meet with there?
A. There were several DEA people in the room. Mike Mapes was in there. And I think even the assistant administrator, I think was in there. I can't -- I can't recall who from DEA was in there.
Q. And so then approximately a week later, Chris Zimmerman tells you we're going to have an enhanced order monitoring program and you're going to be in charge of developing it?
A. In so many words, yes.
Q. How did you know what features you wanted to make changes to?
A. Well, it was based on -- it was based on information that was relayed

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to us from DEA that they wanted us to be able to stop an order and review it before shipping it.
Q. Anything else?
A. That's all I can recall.
Q. Who communicated to you that DEA wanted you to stop an order and review it before shipping it?
A. I'm assuming Chris but I can't -- don't know -- I can't remember for sure.
Q. Did you pass that information on to anyone else?
A. Just internally. Just internal discussions. I couldn't tell you specifically who.
Q. Okay. So then you -- you said it was all-hands-on-deck at that point. Who was involved and assisted you at that point?
A. Pretty much everybody in the department. The -- my direct reports. The -- the investigators. Pretty much everybody in the department that -- that

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worked at the corporate office was -- was engaged to assist.
Q. And then I was asking about the number of people in the department, and you were asking before or after. At some point more people were added to the team. When was that?
A. At some time after that. I can't remember, you know, how long it took. But I know we added a couple of other investigators to help to be trained to review orders.
Q. Do you know their names?
A. I can't remember exactly. I think Ed was hired. Or he may have already been on board at that point. Ed Hazewski as an investigator. A gentleman named Scott Kirsch. I know he was one of the investigators that reviewed orders in the beginning.
David Britmeier, I think he came a little later.
Eric helped -- Eric helped.
I'm trying to think. Cliff

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Flood worked in security. He helped us.
Q. We're talking about new people.
A. New people. Okay. So I know David Britmeier and Scott Kirsch and Ed were, I think, the more recent hires right after the -- the action, but I can't remember if there were others.
Q. Their -- they were all -- their immediate task was to -- to review orders?
A. Yes, I believe so. They -- and conduct investigations.
Q. Did you make any changes to your threshold system at that point?
MS. McCLURE: Object to the form.
THE WITNESS: There wasn't a threshold system at that point.
BY MR. PIFKO:
Q. Okay. Right. You said there was a rolling three-month average --
A. Right.

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Q. -- with the percentage?
Did you make any changes to that aspect of the order monitoring program at that time?
A. Yeah, when we developed the -- back when we developed the enhanced program, it took the place of the old program.
Q. Okay. So an entirely new program designed from the ground up?
MS. McCLURE: Object to the form.
THE WITNESS: It took the place -- it replaced it. Yes.
BY MR. PIFKO:
Q. Okay. So let's talk about --
A. An enhanced version.
Q. Is there a name for that program or?
A. Yeah, order monitoring -- OMP. Order monitoring program.
Q. So let's go over. What are the general attributes of the OMP?

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A. Okay. So first of all, you identify -- I may not have this in the right order. You identify your customers and determine what -- what their DEA registration type is.
Those -- so the -- the process was to put customers into peer groups based on the type of activity that they perform, whether it's a retail pharmacy, a hospital, distributor, whatever, physician. And once they place those into groups by type of registration, then we determine the size of the customer by -- by dollar volume purchases of all prescription drugs including controlled substances. And we place customers in -- so you take all retail pharmacies and you place them in sizes by dollar volume, small, medium, large, extra large, something like that.
[redacted]

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[redacted]
Q. How many customer types were there?

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A. Well, it -- they would -- there were several based on how they were registered with DEA. You know, retail pharmacies, and then you have small, medium, large, I think extra large. They -- I think there were like four different sizes within that family.
Q. And then the higher level, like retail pharmacy, what -- what else is there?
A. What do you mean?
Q. Different types, like hospitals --
A. Yeah, hospital, retail pharmacy, I'm trying to think of other types. Those were the predominately the main ones. It was -- it was based on the customer's DEA registration. So we wanted to make sure that we were comparing customers with their -- the size pharmacy and the size of their peer group, within their peer group.
Because you don't want to try to compare pharmacies, retail

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pharmacies to hospitals. Totally different mix.

[redacted]

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[redacted]

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[redacted]

Okay. So for each type, you have retail pharmacies, hospitals, chain pharmacies?

A. No, I think chains were considered retail.

Q. Okay. Part of the same thing, okay.

Any other categories that you can think of?

A. I'm trying to think. There's a category for like, hospital clinic, and there's another one for physician -- for practitioners, manufacturers, distributors.

Q. Okay. So each customer is put into one of those high level categories. And then they are put into a subcategory based on their total monthly volume?

A. Total, total dollar monthly volume, yes.

Q. The monthly volume, how is that calculated?

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A. By dollar sales.

[redacted]

Q. So you're -- it's -- it's June 2007, and I'm a customer. You're looking at my -- my volume of last month?

A. I think so. That's -- that's what I recall.

Q. Okay. So then I fall into one of those categories. And then I have a threshold that's designed based on the category I'm in?

A. And -- yes. And the type -- and the type and the size of the customer.

[redacted]

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[redacted]

Q. What was the basis for that?
A. We relied on information that was provided by DEA previously and it was, at the time, I think it was posted on their website, which was how to -- it was a formula for determining what a suspicious order for list of

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chemicals should be.
Q. The chemical handlers manual?
A. I can't recall exactly. It was some guidance provided by DEA.
Q. And then so if I'm a customer, and I exceeded that threshold, what happens?
A. For a particular drug?
Q. Right, right. So there's a threshold for each drug family so there's about 70, you said, correct?
A. A threshold is set for each drug family.
Q. Okay. And that threshold is --
A. By a customer.
Q. Okay. And that threshold is a monthly threshold?
A. Well, it's based on that historical data. It doesn't change every month.

[redacted]

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[redacted]

Q. Okay. Who reviews it?
A. Initially at the distribution center level, it's reviewed. And they were allowed to make a determination based on their knowledge of the customer and the order. They had -- they had the ability to either release that order to be filled or to send it -- send it up to our team for further -- further investigation, or further review, I should say.
Q. What knowledge of the customer were they supposed to be looking at?
A. Well, they wanted to have --

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we wanted them to have the opportunity to be able to release an order that was an error, or it's a hospital that was not a high risk item and make their own judgment. And if they weren't absolutely sure that the order was okay, they had to send it up for us to do further review.
(Document marked for identification as Exhibit ABDC-Mays-2.)
BY MR. PIFKO:
Q. I'm handing you what's been marked as Exhibit 2.
The record will reflect the witness is reviewing the document.
For the record, it's a document Bates-labeled ABDCMDL0000075 through 84.
It's dated June 29, 2007. It's a memorandum. The subject is "Update OMP Distribution Center Procedures."
Let me know when you're done.

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A. I will. Okay.
Q. Have you seen this document before?
A. I don't remember it specifically.
Q. Your name is on here, correct?
A. Yes. It looks like I was copied on it.
Q. Is this something that you would have put together or someone -- is this something that you would have put together?
MS. McCLURE: Object to the form.
THE WITNESS: I don't think so, because there's a lot of technical things in here. So I'm not really sure. It looked like it might be more of a team approach. There's IT, you know, print screens of computer screens and things like that, technical stuff that I wouldn't have been

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able to put in here.
BY MR. PIFKO:
Q. You said that you were supervising the development of the program, correct?
A. That's correct.
MS. McCLURE: Object to the form.
BY MR. PIFKO:
Q. Did you have someone on your team that you would have directed to write a memo like this for you?
A. I don't recall.
Q. You don't remember?
A. I don't remember.
Q. Do you know what this document is?
A. Yes. It appears to be a document updating the distribution centers on the procedures for OMP, the new OMP.
Q. So this is the way that the company communicated the new OMP to the distribution centers?

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MS. McCLURE: Object to the form.
THE WITNESS: I'm sure it wasn't the only way. It looks like -- it looks like it was directed to the distribution center associates.
BY MR. PIFKO:
Q. You reviewed this document. Is this consistent with what your understanding of the program was?
A. Yes, it is.
Q. Is there anything that you see in here that's inaccurate?
MS. McCLURE: Objection.
THE WITNESS: I would have to go through it like very carefully. But I didn't -- nothing jumped out at me as being inaccurate.
BY MR. PIFKO:
Q. Okay. Well, let's go to the second page.
A. Okay.

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Q. Top of the page there. It says, "If an order is released or canceled, the distribution center must enter a code and/or freeform text to indicate why the action is being taken, (see Pages 4 and 5). The system will log the user ID, date and time of any action taken. Any order not released or canceled will be electronically submitted to the CSRA to review the following business day (and the CSRA may cancel it, or release it or hold it for further investigation). Orders that are investigated by CSRA will be reported to the DEA."
Is that consistent with your understanding of the program?
A. Orders that are investigated, yeah, there's -- there's -- there's a -- a code. I'm not sure if it's in here. But there's basically a code after they do their review, that they determine it needs to be further investigated and reported to DEA.

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Q. But it says, "Any order not released or canceled will be submitted to the CSRA."
Do you agree with that?
A. Right. Yes.
Q. Okay. And then any order that is investigated by the CSRA will be reported to the DEA, correct?
MS. McCLURE: Object to form.
THE WITNESS: Orders that are investigated, yes.
BY MR. PIFKO:
Q. Well, but it says, "The CSRA may cancel or release it or hold it for further investigation." Do you see that?
A. It also says, "Electronically submitted to CSRA to review the following business day."
Q. Right.
A. Right.
Q. So any order that isn't released or if it's canceled, it's automatically submitted for you to

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review, correct?
A. To review, that's correct.
Q. Going back to the first page. I just want to clarify. We were talking, now that you have this document in front of you. It talks about the customer types in the middle of the page there.
You've got hospital clinic, retail, practitioner, distributor. Do you see that?
A. Yes.
Q. Does that refresh your recollection about some of the other categories?
A. Yeah.
Q. Okay. Do you have a recollection of which were the main categories? One of them you said was retail pharmacy?
MS. McCLURE: Object to the form.
THE WITNESS: Main? I don't know what you mean by main

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category.
BY MR. PIFKO:
Q. Did your customers primarily fall into any particular one of these categories?
A. It's based on their DEA registration.
Q. AmerisourceBergen's customers, was there -- do you recall them falling into any one of these categories more frequently than others?
MS. McCLURE: Object to the form of the question.
THE WITNESS: I couldn't tell you, you know, predominately which customer type is the largest. We did a lot of hospital business, a lot of retail.
BY MR. PIFKO:
Q. Going to the second page. It says, "All subsequent orders that continue to exceed the monthly threshold will be rejected from processing until the OMP's held item is released."

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Do you see that?
A. Yes, I see it.
Q. Is that consistent with what your understanding of how the system was designed to operate?
A. That's my understanding.
Q. And why is that?
A. Because if a specific order was held for review, we didn't want the customer to be able to continue ordering that same drug until we could review whether there was a suspicious order.
Q. And even if you reviewed an order that exceeded the threshold, if a customer placed another order within that month that exceeded the threshold, it was -- under the intended design of the system, it was automatically rejected for processing?
MS. McCLURE: Objection to the form.
THE WITNESS: As long as that order was -- I'm sorry.
MS. McCLURE: It's okay.

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THE WITNESS: As long as that order was still under review, it would reject any additional orders for that drug family.
BY MR. PIFKO:
Q. Let's say -- let's say I'm on Day 15. I place an order that exceeds the threshold.
A. Okay.
Q. You investigate it and release.
If on Day 20 I place another order, now I'm already over the threshold because I already exceeded it on Day 15.
The way I read this, it says, "Any subsequent order that continues to exceed the monthly threshold will be rejected from processing until the OMP held is" -- is released."
Is that order on Day 20 automatically rejected from processing?
A. I'm -- I'm not sure what you're asking.
Q. I'm trying to understand how

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the system is intended to function.
A. Okay.
Q. So I understand if an -- if an order is being reviewed, any order that's placed, you can't just override the system by placing another order, correct?
A. That's correct.
Q. Okay. But I'm also trying to understand, if I exceed the threshold on Day 15, but then the CSRA reviews it and releases it for whatever reason.
A. Okay.
[redacted]

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[redacted]
Q. Okay. So if I place a new order, after a previous order has exceeded threshold but has been released, the new order goes through the process the same way as any other order?
A. That's correct.
Q. Okay. If you go to Page 4.
A. Okay.
Q. This is talking about situations where the distribution associate has elected to release the order. And it says that "you put in the code AD and it means approved by div allocate." And then it has some bullet points talking about scenarios. Do you see that?
A. Yes, I do.
Q. Do you agree with my

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characterization of this document?
A. So far.
Q. Okay. So before I handed you the document, I asked you what happens if an order exceeds a threshold. You said it's flagged for review at the distribution center.
And then the distribution center associate is supposed to make a decision based on their knowledge of the customer. Do you recall that?
A. Yes.
Q. Okay. Now, this -- these bullet points provide some discussion of that. Do you want to look at the first bullet point?
A. Where it says, "This code should be used"?
Q. Yeah.
A. Okay.
Q. So we are talking about the AD code. It says, "This code should be used by the distribution center associate during the initial review."

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A. Mm-hmm.
Q. It says, "If the distribution center associate determines that the order quantity is not suspicious (based on the 'know your customer' philosophy), the order can be released."
Do you see that?
A. Yes.
Q. And that's consistent with what you said what the -- before I handed you the document, the distribution center associate can decide whether to release the order based on their knowledge of the customer, right?
A. That's correct.
Q. Okay. And this explains what the 'know your customer' philosophy is in this same bullet point. It says, "'Know your customer' means knowing which accounts are hospitals, Department of Defense accounts, the warehouse for a chain or grocery customer, or another large customer that has a known, legitimate and well established need for

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high volumes of controlled drugs and listed chemicals."
Do you see that?
A. Yes, I do.
Q. Is that consistent with the methodology that the distribution center associate is supposed to use when making their initial review of the order?
A. That's generally consistent, yes.
Q. Is there any other information about the customer of which they would be aware when they are making their decision?
MS. McCLURE: Object to the form.
THE WITNESS: I -- I can't recall what access to information they had at the distribution center level.
BY MR. PIFKO:
Q. But so, basically, if it's [redacted]

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[redacted] the distribution center associate can release the order, correct?
A. Yes, that is correct.
Q. Was there any specific training provided to distribution center associates about how to identify a suspicious order when you implemented this program?
A. Yes.
Q. Was it put in writing?
A. Yes.
Q. Was -- was there a name for that document?
A. I think it was called responsible -- RPIC training, Responsible Person in Charge. So anyone that reviewed and had -- had the authority to review and release or reject orders had to complete that training and sign off on it.
Q. Okay. What was entailed in

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that training?
A. I can't recall specifically.
Q. Was it an in-person training?
A. Most of the time I think it was. As a matter of fact, it may have always been in-person training.
Q. And there was a document -- written documentation that went with the training?
A. There should have been, yes.
Q. Do you have a sense of how long the training session would be?
A. No, I don't.
Q. An hour?
A. It's been years ago. I can't -- I can't remember how they were -- how they were trained. I just know that they were trained.
Q. Do you know who would have conducted the training?
A. I think initially in some cases -- well pretty much in just about most cases, the compliance manager or the

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CSRA manager, on-site manager conducted the training.
Q. And who trained them?
A. They would have been trained by, I would think our team. I just don't remember exactly how they were trained. Again, we have annual training conferences.
Q. Is there someone specific on your team at that time who was responsible for handling trainings?
A. I don't recall. I don't think so.
Q. It just could have been anyone under you?
A. Yeah.
MS. McCLURE: Object to the form.
THE WITNESS: Excuse me.
BY MR. PIFKO:
Q. Do you recall having someone having the job responsibility of conducting training for the distribution centers?

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A. Well, the compliance manager on site was responsible for doing all the training at the distribution center.
Q. Well, I mean from your group to train the compliance manager?
A. They were trained by our entire team.
Q. They would come to you for that training?
A. Yes.
Q. Annually like you said?
A. Annually. Just about every year we have a training conference.
Q. And was there documents provided in connection with those training conferences?
A. I'm sure we have, you know, the documents as far as the PowerPoints and things like that. I don't know if we've actually got sign offs from each one of them.
Q. When a -- going back to Exhibit 2, Page 4.
When a distribution center

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associate elects to release an order for shipment that exceeded the threshold and was flagged under the system, was there any other documentation they would provide besides entering the AD code?
A. As I recall, they had to enter text as to why they released that order or why they rejected that order. And the compliance manager, as part of their job responsibility, is to review that activity report every morning and sign off on it.
Q. Did you ever review the activity reports?
A. Personally, I've seen them. But that wasn't my role to review those for every distribution center.
Q. Did anyone ever review the activity reports from all the distribution centers to make sure that the process was being implemented consistently and appropriately?
A. Yes.
MS. McCLURE: Object to the

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form.
BY MR. PIFKO:
Q. Who would have done that?
A. The -- the -- I think that was initially -- but I believe the investigators that reviewed orders. They were assigned to certain distribution centers, regions. They would review those reports also. And then we also audited to ensure that those reviews were taking place on our audits.
Q. And so they are supposed to not only put in the AD code to show that it's released; they're supposed to put a narrative in there to explain why they are releasing it?
A. I think so. I don't recall exactly, but I believe they were required to put some sort of narrative -- I think it forced them to put something in there as to use the order was released.
Q. Do you know if anybody -- could you be disciplined for failing to comply with the documentation process in

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the OMP?
A. Yes.
MS. McCLURE: Object to the form.
THE WITNESS: Something just died here.
MR. PIFKO: I think they just turned it off.
THE WITNESS: Yeah, people can be disciplined for violating company policy --
BY MR. PIFKO:
Q. Are you aware of whether --
A. -- while doing their jobs.
Q. Are you aware of whether any distribution center employee was ever disciplined for failing to comply with the order monitoring program?
A. I don't recall.
Q. So then if an order is not released, and it's then presented to the CSRA for review, let's talk about the process there. Who in the CSRA was responsible for reviewing those orders?

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A. It would go to -- those orders would go into -- they would go to the investigators at the corporate office to review. I can't remember how many there were at the time. But they would go -- they would be assigned certain areas.
Q. Okay. Well, we talked about Ed and Scott and David. Those were some people who were investigators?
A. At one time or another, yes.
Q. Okay. Do you recall how many people total you had reviewing orders?
MS. McCLURE: Objection.
BY MR. PIFKO:
Q. Let's be specific about -- when you initially rolled out the program.
A. Not precisely.
Q. How about generally?
MS. McCLURE: Objection.
BY MR. PIFKO:
Q. Less than ten?

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A. Yes.
Q. More than five?
A. I'm not sure. Somewhere around four, five, six.
Q. Somewhere between four and six?
MS. McCLURE: Objection.
THE WITNESS: Possibly.
BY MR. PIFKO:
Q. Okay. At any time did you have more than between four and six people reviewing orders in the CSRA?
A. I don't think so.
Q. What criteria were the investigators of the CSRA trained to look for when they were reviewing orders?
A. They would make sure that initially, they would make sure that there was, I can't remember everything that they looked at, but they had the due diligence. They would look to see if there was due diligence. If there wasn't due diligence, that order would be held until that due diligence investigation

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could be completed.
They also had access to go back and look at, you know, historical data to see, you know, what the customers' ordering patterns and so forth would be.
And then they had to make a decision about, you know, whether to report that as suspicious or to release it, based on the information that they had.
Q. Do you have a sense in the -- in the first year when you launched the new program, at any one time about how many orders in it per day would be flagged for CSRA to review?
MS. McCLURE: Object to the form.
THE WITNESS: No, I don't remember.
BY MR. PIFKO:
Q. Would that be kept in the system's computer system somewhere?
MS. McCLURE: Continuing

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objection.
THE WITNESS: There could be a record of it somewhere. I just don't know what the number was.
BY MR. PIFKO:
Q. So then the CSRA personnel would investigate all the orders that came to them, correct?
A. They would review them.
Q. Okay. What's -- what's the difference between review and investigate?
A. Well, because they can do an initial review and determine it's not suspicious and release it. But once they put it into a status, I can't remember what that status was called. But once they put it into like an investigation, further investigation status, at that point it goes into a queue to be reported to DEA.
Q. Okay. And when -- what criteria are they using to determine if it's just under review or it goes to

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investigation?
A. We used criteria that was provided to us by Mike Mapes and the team. They were there quite a bit and worked with us as we went through developing the program so we weren't just doing it in a vacuum. So they gave us some criteria. And the basic guidance was that once you had to do more work, more investigation of that customer other than just a cursory review of their purchasing history, once you decided that you were going to spend any length of time investigating it, at that point you should report it as suspicious.
Q. Okay. But let's back up.
A. Okay.
Q. I'm trying to understand what the criteria were. Okay. Can you answer that question? What --
A. It's general.
Q. Okay. What --
A. There's not like A, B, C, D, yes. It doesn't work that way.

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Q. Okay. What general criteria are they looking at?
A. I just told you.
Q. You just said about some process. But you didn't tell me anything -- if I'm a CSRA investigator, and I'm doing my initial review of an order that's been flagged by the system, what am I looking for?
A. They are looking to see if there is any historical data in the system. They can look at the system and look at the customer's purchasing history to see what their normal purchasing patterns are for that -- for that product [redacted]
Q. Okay. Anything else --
A. That's when it would get reported as suspicious.
Q. Okay. Anything else that they're looking at?

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A. Not that I can think of.
Q. Okay. Then an order gets -- moves into the investigation phase.
A. Mm-hmm.
Q. What criteria are they looking at to evaluate the order at that point?
A. Well, then they're -- then they're going to look, if there's not been -- if there's not been a due diligence or a site visit or a questionnaire, then they would send out -- typically they would send out a salesperson to go to the customer's site and complete that questionnaire and do a site visit and gather some more information.
Q. Anything else?
A. That's all I can think of.
Q. Okay. So you mentioned evaluating whether there was due diligence. You mean the Form 590?
A. Yes, yes.
Q. Okay. So that's a form that

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was -- well, tell me about what that form was. That was created as part of the OMP, correct?

MS. McCLURE: Object to the form.

THE WITNESS: Yeah, not part of the OMP. It was part of the due diligence process.

I can't remember if the 590 was created post -- you know, during that settlement period or maybe we created it before that, because I know that we were doing some due diligence after 2005. I just don't remember when the actual form was created. But that's part of the review --

BY MR. PIFKO:

Q. Okay. So --

A. -- part of the investigation.

Q. Under what situation does a customer fill out a Form 590?

A. Well, typically the customer

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is not supposed to fill it out. The salesperson during the site visit fills it out with the customer.

Q. Okay. And under what situation is it filled out?

A. For any new customers or if there's orders that have been -- if we've had suspicious orders, then that would be a follow-up due diligence. So there's -- sometimes there can be multiple 590s to be completed for a customer.

Q. Okay. So if I'm a new customer, I have to fill -- we have to fill one out.

Then, if I'm an existing customer and we get to the investigation stage of an order, then -- so what needs to be filled out then?

A. Another one could possibly need to be filled out then.

Q. Okay. What if I have one on file and I have an order that gets kicked in the investigation stage, do I automatically get a new form filled out

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or do you just look at my --

A. Not automatically.

Q. Okay. So you look at my other form. What do you do with that information?

A. They make a -- try to make an informed decision about what's next steps to take with that customer.

Q. Well, what -- what are they looking at on the form to inform their decision?

A. Well, they are looking at the data that was provided by the customer.

Q. I'm trying to understand. An order gets sent for -- for investigation. One of the things I'm supposed to do in my investigation is look at the Form 590. When I'm looking at the Form 590, what is on the Form 590 that informs my investigation?

A. Well, they may go call the customer and confirm some of the information. Ask them if anything has

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changed. Maybe they went from, you know, 100 prescriptions a day to 200 prescriptions a day. Just -- that's just an example. Maybe it's a hospital that added 20 -- you know, 100 beds.

Q. What else is on the form that would help me perform my due diligence investigation?

A. I don't know.

MS. McCLURE: Objection to form.

THE WITNESS: I don't know.

BY MR. PIFKO:

Q. You don't know?

A. I don't know what else. I don't remember everything that's on the form. I haven't seen one in a while.

Q. Who trained the investigators to do the investigation?

A. It would be me and the lead team and -- and CSRA with DEA's assistance.

Q. Was there documentation of the training that was provided to the

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investigators?
A. I don't know. I don't recall.
Q. You don't know if there was any handouts or anything given to them when they were trained?
A. I don't recall.
MS. McCLURE: Objection. Asked and answered.
BY MR. PIFKO:
Q. Was there any regularity with the training?
MS. McCLURE: Objection to form.
THE WITNESS: I don't recall.
BY MR. PIFKO:
Q. Did anyone give you specific training on how to conduct a due diligence investigation?
A. DEA.
Q. When did they give you training?
A. Sometime during that

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process. When they were working with us through the settlement.
Q. Where did you go to do the training?
A. They just gave it. It wasn't like formal training. They just gave us general pointers and ideas about how we should conduct our investigations. They gave us the guidelines.
Q. They gave you something in writing?
A. No.
Q. Who -- who told you this?
A. Mike Mapes, Kyle Wright, for the most part.
Q. They came and met with you and told you?
A. Yes.
Q. And when did they come and meet with you?
A. They were there multiple times during the implementation of the enhanced OMP.
Q. And this is in the -- after

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June 2007?
A. No.
MS. McCLURE: Objection.
BY MR. PIFKO:
Q. When -- when is this?
A. It was prior to that.
Q. Okay. When was the enhanced OMP implemented?
A. Around June. They were there in the development of it.
Q. Okay. So they were there between April and June 2007?
A. That's correct.
Q. About how many times did they come meet with you then?
A. I don't remember.
Q. More than ten?
A. I don't remember.
Q. And at some point they gave you training on how to conduct due diligence?
A. I explained that. They gave us general guidelines and -- and observations, and they were there during

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the development.
Q. How long did you meet with them?
A. I don't remember.
Q. All day, or --
A. I don't remember.
Q. Did anyone ever give you formal training on the DEA laws and regulations?
MS. McCLURE: Object to the form.
THE WITNESS: I've had training several times over the years. I think we talked about that earlier during our training conferences.
BY MR. PIFKO:
Q. At this time in 2007 had anyone given you training on DEA rules and regulations?
MS. McCLURE: Object to the form.
THE WITNESS: Yes.
BY MR. PIFKO:

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Q. Who?
A. People within our department. DEA. DEA has provided training in our training conferences. All the regulations.
Q. When -- when did you have a training conference where someone from the DEA gave you training?
A. Multiple times.
Q. In 2005?
A. I don't recall. I don't recall specific dates.
Q. How about in 2006?
A. I don't know. I don't remember.
Q. Who from the DEA gave you training on their rules and regulations?
A. Scott Davis from DEA in Philadelphia a couple of times. Mike Mapes. Who else? Mike Mapes more than once. Brian Reese from DEA provided training for our team. So there's four or five times specifically.
Q. Okay.

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A. I just don't know the dates.
Q. Were those before or after 2007?
A. Both.
Q. You testified earlier that that meeting in 2005 was only the second time you met with anyone at DEA. Do you recall?
MS. McCLURE: Objection. Misstates prior testimony.
THE WITNESS: I don't recall saying that.
BY MR. PIFKO:
Q. You said that you met someone in the '70s in Tennessee, and then you said that that meeting, Exhibit 1, was the only other time that you recall meeting with someone from the DEA.
MS. McCLURE: Objection. Misstates prior testimony.
THE WITNESS: No, that's not what I said.
BY MR. PIFKO:

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Q. Well, you correct me then.
A. I said I met with DEA in Atlanta once.
Q. Okay.
A. I've met with DEA at different meetings, conference -- trade association conferences. They've been to the offices to do training at our training conferences. I provided training to DEA people.
Q. When did DEA -- DEA came to AmerisourceBergen's office to do training?
A. Yes. Yes.
Q. When was that?
A. During our training conferences.
Q. Annually, every year?
A. Not every year. But they came, they were invited. Sometimes they were invited and couldn't come. But we tried to invite them almost every year. That's to our entire department.
Q. Did anyone other than DEA

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train you on DEA rules and regulations?
MS. McCLURE: Object to the form. Asked and answered.
THE WITNESS: Not other than internal people.
BY MR. PIFKO:
Q. Who internally gave you training on DEA rules and regulations?
A. Other directors and managers in our department that were -- that had experience in the past.
Q. Can you name anyone?
A. Rodney Bias. Larry Holland. Chris Zimmerman. Myself, I've done training for our team.
Q. So going back to the OMP process, so an order gets kicked into the investigation phase. Then it's put on a list to be reported to DEA?
A. It goes into a queue and gets automatically reported to DEA headquarters.
Q. How -- when has that happened?

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A. Daily.
Q. And then the CSRA investigator can release that order or reject it after completing their investigation?
MS. McCLURE: Object to the form.
THE WITNESS: No.
BY MR. PIFKO:
Q. What -- what happens?
A. Well, if they've decided to further investigate that order, it's going to be reported and it won't be released.
Q. So it will never be released at that point?
A. Unless something -- it -- once it goes into that queue, there gets -- there's a messaging system. And I'm -- we're just talking about that time frame, that goes back and rejects the order. So they can't -- after they reported it suspicious, they can't go back and say, well, let's release it.

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Q. Okay.
A. That's my recollection.
Q. So then when the investigators are conducting the investigation, what's the -- what's the outcome of the investigation?
MS. McCLURE: Object to the form.
THE WITNESS: That depends on the order itself and the circumstances around the order and the customer.
BY MR. PIFKO:
Q. But that order -- that order can't be ever released at any point. That's what you said, right?
MS. McCLURE: Object to the form.
BY MR. PIFKO:
Q. Once it's in the investigation stage it can't be released?
A. Once it's been reported as suspicious to DEA it can't be released.
Q. Okay. But once it goes into

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the investigation stage, it's automatically reported as suspicious, correct?
A. If that investigator puts it into that further -- I can't remember the terminology for it, but they basically click a button or put it into a phase that says further investigation at that point. It gets reported as suspicious and it can't be shipped, is my understanding.
Q. Okay. Well, this says, "Orders that are investigated by CSRA will be reported to the DEA." Do you agree with that? Page 2, Exhibit 2.
A. Let me look at it again and make sure.
That's correct. It says they will be reported to Drug Enforcement Administration, yes.
Q. Let's turn to Page 5 of that same document.
A. Okay.
Q. Halfway down the page it

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says -- there's a code IN, investigate, transmit to CSRA. Do you see that?
A. Yes, I see that.
Q. "This code should be used after the initial review by the distribution center associate to identify that order's lines should be investigated by CSRA. These order lines will be transmitted to CSRA during the Star End of Day process and will be marked CSRA to indicate that they have been sent."
Do you see that?
A. Yes, I do.
Q. Okay. Do you agree with that as an accurate characterization of how the system works?
A. That is a characterization. I think that might be creating some confusion for you. That's the code that they use in the Star system to say we've sent this order for CSRA to review. I know it says investigate. But that's what that code means.
Q. Okay. Well, it says, "This

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code should be used after the initial review by the distribution center in order to identify orders/lines that should be investigated."
A. That's what it says.
Q. Okay. But that's not --
A. Agree that's what it says.
Q. That's not accurate?
MS. McCLURE: Object to the form.
THE WITNESS: Yeah, it means -- it actually should be further review. If you look over in there, that's what it says that they do, the CSRA associates do, is they do a further review.
BY MR. PIFKO:
Q. Where does it say that?
A. Bear with me, and I'll find it.
If you go to first -- the first page in the last paragraph. It says, "The review process is a new DC requirement that must be conducted

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nightly/daily. During the review process, the DC will either release the order to be picked, shipped, cancelled, or flag the order to be reviewed by corporate security and regulatory affairs."
Q. Is there a code for review that's different for a code for investigate?
A. That means the same thing to them. That's their code.
Q. So the only code a distribution center associate can put in is either that they're going to cancel it or approve it or send it for investigation, correct?
A. Or send it for review. To them --
Q. Well, you are adding words that are not in the document, sir.
MS. McCLURE: Objection.
BY MR. PIFKO:
Q. It's -- the code is investigate, IN, correct?

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A. I understand what the code is.
Q. That is what the code is, correct?
A. That is the code for the -- for them to send the order for further review. They understand what the code means.
Q. Investigate is the code for -- for sending it to the CSRA; is that correct?
A. That's what it says here.
Q. Okay. Is that the policy?
A. The policy is for them to put it into that -- put that code in if that order is to be sent for CSRA to review.
Q. And you agree that the policy was that the code should be used after the initial review by the distribution center associate to identify order lines that should be investigated by the CSRA, correct?
A. That means -- that means

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that they are to send that to CSRA for review. I'm not going to change my answer.
Q. Okay. But that's not what the policy says.
A. This is not a policy. This is a memorandum to the field.
Q. Okay. Well, you didn't communicate that to the field, did you?
MS. McCLURE: Objection to the form.
BY MR. PIFKO:
Q. That's not what's communicated here, is it?
MS. McCLURE: Objection.
THE WITNESS: This is giving them instructions on how to send an order to CSRA to review.
BY MR. PIFKO:
Q. The document says what it says.
If an order is --
MS. McCLURE: Objection to the commentary.

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BY MR. PIFKO:
Q. -- reported as suspicious, it would violate the company policy to ship it, correct?
MS. McCLURE: Objection to the form.
THE WITNESS: Can you repeat the question?
BY MR. PIFKO:
Q. If an order is reported as suspicious, it would violate the company policy to ship it, correct?
MS. McCLURE: Objection to the form.
THE WITNESS: I'm not sure what the policy states, but in general, they shouldn't not be able to ship an order that's been reported as suspicious.
BY MR. PIFKO:
Q. Why is that?
A. Because it would be -- the order would be rejected.
Q. Because that's the policy,

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correct?
A. Because it was sent as suspicious. I don't know if there's a written policy that spells that out.
Q. Okay. Well, it's your understanding that that's what the law and the practice at the company was, that if an order was suspicious, it cannot be shipped, correct?
MS. McCLURE: Objection to the form.
THE WITNESS: That was -- that was -- that was how the system was designed, to not be able to ship an order that has been reported as suspicious.
BY MR. PIFKO:
Q. And why was the system designed that way?
A. Because we made a decision not to ship orders that were reported as suspicious --
Q. Because as I showed you earlier --

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A. -- when we developed the program.
Q. -- testimony from Mr. May. If an order is identified as suspicious, it's the company's understanding of the rules and regulations that it can't be shipped, correct?
MS. McCLURE: Objection to the form. Again, clarify time period.
THE WITNESS: Yeah, that's -- he's talking about current. And prior to this period of time, that was not the stance.
BY MR. PIFKO:
Q. That was the same rule at this period of time, correct?
MS. McCLURE: Objection to the form.
THE WITNESS: Again, if we report an order as suspicious, we would not ship it.
BY MR. PIFKO:
Q. You're not answering my

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question.
A. Yes, I am.
Q. No, you're not.
A. Okay.
Q. I asked you why?
A. Why?
Q. You're just repeating the what.
A. Why what?
Q. Why, if you report an order as suspicious, you can't ship it?
A. Because that's how we designed the system, to not be able to ship it.
Q. Because as Mr. May said, under the company's understanding of the laws and regulations, if an order is identified as suspicious, you can't ship it, correct?
MS. McCLURE: Objection to the form.
THE WITNESS: We made the determination based on our discussions with DEA after the

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suspension that we would not ship an order that we reported as suspicious.
BY MR. PIFKO:
Q. And that's what you understood the DEA wanted you to do, correct?
A. That's correct.
Q. And if you shipped it after reporting it, it would violate what the DEA wanted you to do, correct?
MS. McCLURE: Objection to the form.
THE WITNESS: We couldn't have shipped it, because it was reported as suspicious.
BY MR. PIFKO:
Q. But if you did, it would violate not only your policy --
A. We wouldn't have shipped it if it was reported as suspicious.
Q. So you're saying that never happened?
MS. McCLURE: Objection to

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the form.
THE WITNESS: I'm not saying that. I don't know for sure.
BY MR. PIFKO:
Q. Okay. Well, if that happened, you would agree that would violate the directive that you just told me DEA gave you, correct?
A. That would violate what we instructed, the way we designed the system.
Q. That's not what I'm asking. You can't make up questions that I didn't ask you.
A. I'm not making up questions.
Q. Okay. I asked you, if that occurred, that would violate the directive the DEA gave you, correct?
MS. McCLURE: Objection to the form.
THE WITNESS: I don't remember them giving us that directive.
BY MR. PIFKO:

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Q. You just told me that they told you that in the meetings. You just said that.
A. No, that was just our understanding from the conversations with them.
Q. Okay. Well --
A. Our directive was to stop an order and review it before we ship it.
Q. And you understood that they didn't want you to ship it if it was identified as suspicious, correct?
A. That was my understanding.
Q. You are involved in or have been involved in various committees with the HDA, correct?
A. Yes. That's correct.
Q. When did you first start having involvement with the HDA on behalf of AmerisourceBergen?
MS. McCLURE: Object to the form.
THE WITNESS: I don't recall. I don't recall.

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BY MR. PIFKO:
Q. Early in your time working with them?
MS. McCLURE: Objection. Asked and answered.
THE WITNESS: Early in my time working for AmerisourceBergen?
BY MR. PIFKO:
Q. Yeah.
A. No. No.
Q. Do you recall the first time that you were invited to be part of a committee in the HDA?
MS. McCLURE: Objection to the form.
THE WITNESS: It would probably have been sometime after 2002.
BY MR. PIFKO:
Q. Okay. And what committee was that?
A. Regulatory affairs committee.

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Q. What were your responsibilities on the regulatory affairs committee?
MS. McCLURE: Objection. Assumes facts not in evidence. Form.
THE WITNESS: Not really any distinct responsibilities. Just participated in calls that they had.
BY MR. PIFKO:
Q. How often did you do that?
A. I can't remember. I know the calls now are, like, biweekly. I don't remember what the frequency was when I first participated.
Q. Who else participated in the calls?
MS. McCLURE: Objection to -- to form.
THE WITNESS: Just about any -- it was -- it was mostly regulatory affairs counterparts from within our industry. But

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just about any member could participate in the call or listen in.
BY MR. PIFKO:
Q. Do you remember the names of any specific individuals?
A. That are on the committee?
Q. Yes.
A. Yes.
Q. Can you name them?
A. From other companies?
Q. Yes.
A. Gosh. Steve Reardon from Cardinal was. Gary Hilliard who was with McKesson. Brad Pine from Smith Drug. I'm trying to think if there was anybody else. That's the ones that I remember. George Hewson from HD Smith.
Q. So you had regular calls with them, correct?
MS. McCLURE: Objection to form.
THE WITNESS: Well, we participated in the HDA regulatory

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affairs committee calls, yeah.
BY MR. PIFKO:
Q. And then did you meet with them in person ever?
A. Typically during their annual meetings, annual distribution management conference. Typically we would meet sometimes during those. But rarely -- rarely were they in person meetings. Typically it was just the phone calls.
Q. What type of issues did you discuss in the phone calls?
A. Any regulatory issues that were of interest to the members.
Q. And what do you mean by regulatory issues?
A. It could be ranging from HAZMAT issues with DOT, OSHA issues, DEA, Board of Pharmacy, any type of issues that affected the members that applied to the members, regulations, pending regulations.
Q. Are you familiar with the

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HDA's industry compliance guidelines?
A. Yes, I'm familiar with them.
Q. Were you involved in helping put those together?
MS. McCLURE: Objection to the form.
THE WITNESS: Well, HDA put those together. I participated in a meeting when they were getting input from their members in how to develop those guidelines.
BY MR. PIFKO:
Q. Just one meeting?
A. There may have been more than one. But I just remember the one.
Q. Was that on the phone or in person?
A. That was in person at HDA's offices.
Q. So when was that?
A. I'm thinking probably 2008 sometime, or '9, sometime in that time frame.
Q. To help your recollection,

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I'll represent to you that the guidelines were first published in 2008.
A. Okay.
Q. Okay. So do you think that it was around that time?
A. I would think so.
Q. Do -- were there other members of the industry present at that meeting?
A. The discussion to develop them?
Q. Yes.
A. Yes, but I don't remember who was there. Who was in attendance.
(Document marked for identification as Exhibit ABDC-Mays-3.)
(Document marked for identification as Exhibit ABDC-Mays-4.)
BY MR. PIFKO:
Q. I'm handing you two exhibits at one time, Exhibits 4.
A. Thank you.

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Q. And Exhibit 5.
MR. PIFKO: You know what, I skipped 3. So --
MS. McCLURE: 3.
MR. PIFKO: -- I'm going to give you 3.
MS. McCLURE: Okay.
MR. PIFKO: 4 and 3.
MS. McCLURE: So this is 4. The single page e-mail.
MR. PIFKO: 4.
THE WITNESS: Okay.
BY MR. PIFKO:
Q. Take a minute to review that. One of the documents is the guideline. You don't need to sit there and read the whole thing. We'll get into it. If I'm asking about it and you want to read it, you can. But just for right now, you can look at the e-mail and the attachment.
A. You're not going to ask specific questions about the guidelines? Because I'll need to read it if you are.

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Q. Yeah, you can. I just --
A. Okay.
Q. We don't need to sit here while you are reading the whole thing. Exhibit 4 is this e-mail Bates-labeled ABDCMDL00295006.
On the second page there.
A. On the back?
Q. Yeah.
A. This is the e-mail chain?
Q. Yeah, it's an e-mail from Chris to you. And he's asking if you know when HDMA published the guidelines. He remembers going to DC with Cardinal, McKesson.
A. Yep. Yes.
Q. Does that refresh your recollection about anyone who was there?
A. No, I mean not -- not the sparse specific individuals. I would assume Cardinal and McKesson would have been in that meeting, because they were members.
Q. Do you know if Chris went

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with you. He says, "We spent some time"?
A. Yes, I remember Chris and I both went.
Q. Okay. Anyone else from Amerisource go with you?
A. I don't think so.
Q. Then you write back to him that the guidelines were put together in October 2008 after Cardinal's DEA suspension.
A. It sounds right.
Q. What do you know about Cardinal's suspension in 2008?
A. I don't know a lot of specifics. I know in general what it was about.
Q. What do you know generally?
A. It was tied to their distribution to, I think CVS stores in Florida. Other than that I couldn't tell you any specifics.
Q. Do you know if they entered into a settlement agreement?
A. I think they did, but I'm

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not positive. I'm assuming they did.
Q. Do you know if they paid a fine?
A. I believe they did.
Q. Do you have a sense of how much?
A. It was like in 32 million, something like that. I think.
Q. Do you remember that being significant or a topic of discussion in the industry?
A. I can't remember. I would assume it was.
Q. Hmm?
A. I would -- I would think it would be.
Q. Then this talks about another one in 2012?
MS. McCLURE: Sorry, where are you, Mark?
MR. PIFKO: Same document, Document 4.
MS. McCLURE: Oh.
BY MR. PIFKO:

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Q. I can't -- the same e-mail that you're saying there, "They had another one in 2012." Do you see that, related to Walgreens?
A. Yes. Yeah, I see that.
Q. Do you know what that one was about?
A. Not specifically.
Q. Do you know it's related to Walgreens?
A. Yeah, I remembered it was related to Walgreens.
Q. Do you have -- oh, sorry.
(Document marked for identification as Exhibit ABDC-Mays-5.)
BY MR. PIFKO:
Q. I'm handing you what's been marked as Exhibit 5. For the record it's a document from Cardinal Health production, Bates labeled CAH_MDL2804_00865762 and 86574.
MS. McCLURE: I need just a moment to review this, please.

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I just want to clarify for the record. So, Sterling, your position, and I'm -- I'm not saying it's correct or incorrect. I'm just trying to make sure I understand your position.
Your position is you did not have to --
MR. PIFKO: The order says if you're -- if you're aware of the information in the document, then you don't have to show it at the time. You're already -- you're already a covered person who is allowed to see the document if you're a recipient or a participant in the document. That provision only applies if you're not a covered person.
MS. McCLURE: Thank you for the explanation.
MR. PIFKO: No problem.
MS. McCLURE: And the interruption.

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But -- and you're talking about the currently in effect protective order for this case has that exception in it?
MR. PIFKO: Yes.
MS. McCLURE: And is there someone here from Cardinal?
MS. PETERSEN: Yes. Miranda Petersen.
MS. McCLURE: I just want to make sure that there's no dispute about their ability to use this document.
MS. PETERSEN: I haven't seen the document.
BY MR. PIFKO:
Q. Exhibit 5 is an e-mail from you --
A. Mm-hmm.
Q. -- in response to a Cardinal Health press release where Cardinal announces that it got an injunction against -- or a restraining order that allowed them to resume shipments at their

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Lakeland facility despite the DEA having suspended their registration. Do you see that?
A. Mm-hmm, yes.
Q. And you write to Steve Reardon and Michael Mone and say "Nice work!" Agreed?
A. Agreed.
Q. Why did you say that to them?
A. Well, because I've known both of those guys personally for a long time. I was just congratulating them on successfully getting the restraining order.
Q. You were pleased that they got a court to allow them to overrule a DEA decision to suspend their registration?
A. Well, I would think --
MS. McCLURE: Object to the form. You can answer.
THE WITNESS: I would think maybe DEA has made some mistake or

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a judge wouldn't have put a restraining order in place. So I think that they -- you know, they should be able to continue doing business.
BY MR. PIFKO:
Q. You were pleased that they pointed out some mistake the DEA had made?
MS. McCLURE: Objection to the form.
THE WITNESS: No, I'm just pleased -- I'm just pleased for my people that I knew for a long time personally. I was just pleased for them that they were able to get some success.
BY MR. PIFKO:
Q. And who are Steve Reardon and Michael Mone?
A. Well, Steve Reardon and Michael Mone work for Cardinal Health. Steve has since retired. Known him for probably 20 years or so.

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Q. What do they do at Cardinal Health?
A. Steve doesn't do anything there. He's retired.
Q. At the time you knew them or at that time.
A. He was my counterpart for the most part. Regulatory. I don't know what his exact title was.
Q. You were friendly with them?
MS. McCLURE: Objection to the form.
THE WITNESS: Not so much personal friends, but just -- just associates, you know, that we have know -- known each other for a long time.
BY MR. PIFKO:
Q. And you interacted with them a lot in the course of your dealings?
MS. McCLURE: Objection to form.
THE WITNESS: Not a lot, no.
BY MR. PIFKO:

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Q. Well --
MS. McCLURE: We've been going about an hour and a half, so when you get a moment.
THE WITNESS: Yeah, I -- I need a potty break myself.
MR. PIFKO: We are in the middle of this question. So let me just ask a question.
BY MR. PIFKO:
Q. You said they were people that you knew for a long time personally. They were personal friends of yours?
A. Not --
MS. McCLURE: Objection to form. Asked and answered.
THE WITNESS: I think I answered that.
BY MR. PIFKO:
Q. I'm asking you again.
A. I don't know how you define personal friend versus personal versus friendly business associate. But I have

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known -- gotten to know them for -- over the years, as -- as members of regulatory affairs committee and meeting -- seeing them in meetings and things like that. But no, we don't go take family vacations together.

MR. PIFKO: Okay. Thank you. We can take a break.

MS. McCLURE: Thank you.

THE VIDEOGRAPHER: We are going on break. The time is 3:00 p.m.

(Short break.)

THE VIDEOGRAPHER: We are going back on the record. Beginning of Media File Number 4. The time is 3:18.

BY MR. PIFKO:

Q. Do you know what the -- the outcome of the 2012 suspension order with Cardinal Health was that you referred to here in these exhibits?

A. I don't remember distinctly, no.

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Q. Do you know if they paid a fine in connection with that?

A. I don't remember.

Q. So let's turn to Exhibit 3, the industry compliance guidelines?

A. Okay.

Q. For the record, Bates labeled ABDCMDL00295009 through 5024. So these are -- have you seen these before?

A. I'm sorry?

Q. Exhibit 3, the final guidelines published in 2008. Have you seen them before?

A. I believe I have. Yes.

Q. These are the best practices you were talking about in -- in Exhibit 4 developed at the -- I'm quoting, Chris' e-mail to you, the best practices that HDMA ultimately sent to DEA, and that you met with Cardinal and McKesson and DC to discuss this, correct?

A. No. Where did you get meeting Cardinal? Oh, you're talking

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about --

Q. Exhibit --

A. Developing the guidelines.

Q. Yes.

A. Yes, and it seems like they did a revision at some point. But I don't remember when that was.

Q. Okay. Yeah. I think there was a later version in 2012 or something.

A. Maybe a later revision -- okay.

Q. Says that every time Cardinal gets a DEA enforcement action. I want to focus your attention to ABDCMDL 295015.

A. Which would be like Page 7 of 16?

Q. Right, right.

A. Okay.

Q. We can use whichever page you prefer.

A. Okay. All right.

Q. All right. You see under a heading Monitoring For Suspicious Orders.

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Heading 2. Do you see that?

A. I see that.

Q. Okay. System design. "It is recommended that a distributor develop an electronic system with accompanying written standard operating procedures to meet the DEA's requirement in Section 1301.74(b), that a distributor 'design and operate a system to disclose to the registrant suspicious orders of controlled substances.'"

Do you see that?

A. Mm-hmm. Excuse me.

Q. Do you agree with that?

MS. McCLURE: Objection to the form.

THE WITNESS: Give me a second to read it again.

BY MR. PIFKO:

Q. No problem.

A. I believe that's -- I believe that's accurate.

Q. Let's go to the next page here.

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A. Okay.
Q. Heading C, "Develop Thresholds to Identify Orders of Interest."
Do you see that?
A. Yes, I do.
Q. Have you ever heard the term "order of interest" before?
A. Yes.
Q. When is the first time you heard it?
A. I can't remember when. I know we've used that terminology.
Q. You believe that in developing these guidelines, that was the first time you heard it?
MS. McCLURE: Objection to the form.
BY MR. PIFKO:
Q. You don't know?
A. Don't know.
Q. What's your best recollection of when AmerisourceBergen started using that term?

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A. Don't know.
Q. Is it a part of your order monitoring program that's currently in place?
A. I don't -- I don't know if we've got that terminology in our current policies, because I don't -- I haven't reviewed those lately. So I don't know if we still -- I don't know if we use that or not.
Q. What's your current position at AmerisourceBergen?
A. Senior director, corporate security and regulatory affairs.
Q. You still have responsibilities for diversion under your purview?
A. No.
Q. When did you switch into a role where you no longer had diversion control function and --
A. When -- I'm sorry. When David May was hired.
Q. Okay. And that was in 2014?

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A. I believe so. I'm not sure the exact date.
Q. Up until that time, you had responsibilities that included diversion control, correct?
A. On and off during the time -- during the time period.
Q. You said in 2007 you were the top person that had diversion control responsibilities, correct?
A. That's correct. Yes.
Q. At some point someone came in and you didn't have diversion control responsibilities?
A. That's correct.
Q. Who was that?
A. Well, when Ed Hazewski was put in charge of the diversion control program. He reported directly to Chris.
Q. Do you know when that was?
A. Sometime in 2008, or '9, I believe.
Q. And at that time you had no responsibilities for diversion control

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issues?
A. No direct -- no direct responsibilities, no.
Q. But then you reassumed them at some point?
A. At some point, Chris had Ed start reporting to me.
Q. And when was that?
A. I think it was around 2012.
Q. Did Chris tell you why he wanted Ed to start reporting to you instead of him?
A. No, he didn't or I don't remember why.
Q. Did Ed tell you why?
A. I don't think he did. I don't recall why.
Q. So from 2012, at that point in 2012 to 2014, your involvement with diversion control was overseeing Ed?
A. Right.
Q. Anything else?
A. That's correct. That was pretty much it. He just reported up to

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me. But he ran the program.
Q. Okay. So do you have an understanding of what the phrase "order of interest" means?
A. Yeah, my understanding is it's basically the same thing as -- that it's being reviewed, that it's in review, that it hasn't been determined to be suspicious yet, that it's an order of interest.
Q. If you look on this -- Page 8 of this document.
A. Okay. I'm there.
Q. It's talking about thresholds for identifying orders of interest. Do you see that?
A. I do.
Q. First paragraph.
Then, second paragraph says, "When evaluating thresholds, orders of unusual size and unusual frequency can be used to signal that an order may need further review."
Do you see that?

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A. Yes, I do.
Q. Do you have an understanding about what the criteria are that make something an order of interest?
MS. McCLURE: Objection to the form.
THE WITNESS: In general, if an order hits one of those thresholds, that would make it an order of interest.
BY MR. PIFKO:
Q. One of those thresholds being, if it's an unusual size or unusual frequency?
MS. McCLURE: Objection to the form.
THE WITNESS: I think it's related to the threshold that's -- again, this is HDA -- HDMA's created guidelines. I'm not sure what they meant.
But my thinking is when it hits a threshold, it becomes an order of interest.

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BY MR. PIFKO:
Q. But this says when evaluating threshold, orders of unusual size and unusual frequency can be used to signal that an order may need further review. Do you see that?
MS. McCLURE: Objection to the form.
THE WITNESS: I can't really interpret what HDMA put together. It's not -- it's not my document.
BY MR. PIFKO:
Q. Okay. Well, let's talk about you. You said that you are familiar that Amerisource has used the term "order of interest," correct?
A. I'm not sure if it's officially. It's just "order of interest" is an easy way to say it's in review. Just another way of saying it's in review.
Q. What criteria does AmerisourceBergen use to determine whether an order is an order of interest?

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MS. McCLURE: Objection. Asked and answered.
THE WITNESS: Which time period?
MS. McCLURE: You can answer.
BY MR. PIFKO:
Q. At any time period.
A. I can't tell -- I can't speak to how it's determined today.
During this time period, if an order hit the threshold, it was -- it was considered to be in review or an order of interest.
Q. And an order hitting the threshold is an order that exceeds what was the three times the average, right?
MS. McCLURE: Objection to the form.
You can answer.
THE WITNESS: Excuse me.
It would -- it would be an order that exceeded the threshold for that customer for whatever

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peer group they are in and size they are.
BY MR. PIFKO:
Q. And that's an order of unusual size, because it exceeds the average, correct?
MS. McCLURE: Objection to the form.
THE WITNESS: Those thresholds were -- ask the question again.
BY MR. PIFKO:
Q. An order that exceeds its threshold is an order of unusual size. That's the point of the threshold. It's an average, and you're saying it's three times more, correct?
A. It could be. It could be.
MS. McCLURE: Objection to the form.
BY MR. PIFKO:
Q. Do you have an understanding that AmerisourceBergen under any policies that AmerisourceBergen would halt the

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shipment of an order of interest?
A. Would we halt the shipment of --
Q. You don't ship an order because it's an order of interest?
A. If it's an order of interest, it's in review and during this period it would be held until that order is adjudicated.
Q. What I'm trying to understand is, is it -- at any time was it AmerisourceBergen's policy that it could refuse or reject a shipment that was categorized as an order of interest?
MS. McCLURE: Objection to the form.
THE WITNESS: I'm not sure. I can't answer that.
BY MR. PIFKO:
Q. You don't know either way?
A. I don't know either way.
Q. In AmerisourceBergen's contracts with its customers, does it have a right to halt the shipment of an

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order that is suspicious?
A. I'm not familiar with what's in the customers' contracts.
Q. Have you ever discussed that with anybody?
A. As far as what would be in the contract?
Q. And whether you're allowed to halt the shipment of a suspicious order.
A. Well, that's what we did. If we reported an order as suspicious, it was halted.
Q. Have you ever heard pushback from a customer, you're not allowed to do that?
A. No. I can't remember ever having a customer telling me that we're not allowed to do that.
Q. How about if an order is in review? Have you ever heard a customer complain that an order is in review and they're frustrated it's not being shipped while it's in review?

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A. Yes.
Q. Yes?
A. Yes. Customers complain frequently.
Q. What do you tell them?
A. It doesn't --
MS. McCLURE: Objection to the form.
THE WITNESS: It depends on the circumstance.
BY MR. PIFKO:
Q. Does the company have a policy about communicating to customers when their orders are held in review?
MS. McCLURE: Objection to the form.
THE WITNESS: I don't know what the policy is.
BY MR. PIFKO:
Q. Do you think they have one?
MS. McCLURE: Objection to the form.
THE WITNESS: I don't know.
BY MR. PIFKO:

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Q. You're not familiar with it?
A. I don't know.
Q. Do you know if there's any training to employees about whether -- the extent to which they're allowed to communicate with customers when their orders are held in review?
MS. McCLURE: Objection to the form.
THE WITNESS: Don't know.
BY MR. PIFKO:
Q. Looking at Page 9.
A. Okay.
Q. Under Heading 3.
A. Okay.
Q. "Suspend/stop an order of interest shipment."
Do you see that?
A. Yeah, I see it.
Q. Do you recall discussing the concept of orders of interest when you met in D.C. with the HDA and the other members of industry to discuss these guidelines?

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A. No, I don't remember specifically discussing that.
Q. What do you remember discussing?
A. I don't remember any specifics about the meeting. I just remember that we were discussing HDMA putting those guidelines together.
Q. Did you discuss what AmerisourceBergen's OMP practices were at that meeting?
A. In general, yes, we did.
Q. Did the other members -- well, let me just -- did the representatives from Cardinal explain what their system was at that meeting?
A. I don't recall that they did.
Q. How about McKesson. Did anyone from McKesson describe their suspicious order monitoring program at that meeting?
A. No, I don't recall that they did.

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Q. You don't recall either way?
A. I don't recall anyone else discussing their programs other than us.
Q. But you know you did?
A. Yeah.
Q. And that was in their presence?
A. If they were there it was in their presence, yes.
Q. When you attend an HDA meeting, is there a sign-in sheet?
MS. McCLURE: Objection to the form.
THE WITNESS: No. Typically not, no.
BY MR. PIFKO:
Q. Someone circulate meeting minutes after the meeting?
A. I believe they do.
Q. Does it list the attendees?
A. Which type of -- let me ask you a question. Which type of HDA meeting are we talking about?
Q. A regulatory --

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A. A conference or --
Q. A regulatory affairs meeting.
MS. McCLURE: Objection to the form.
THE WITNESS: They are generally conference calls and they take a rollcall and really all they keep up with is how many companies, which companies are on the call, not so much which individuals.
BY MR. PIFKO:
Q. And they --
A. From what I can tell the way they take rollcall.
Q. They circulate meeting minutes after those calls?
A. Not normally, no.
Q. And then from time to time there's in-person meetings?
A. Rarely for regulatory affairs committee.
Q. Do they circulate meeting

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minutes of those?
A. Not normally.
Q. But they have?
A. I'm trying to remember. I don't think they do. I don't remember ever getting minutes from a regulatory affairs committee meeting.
Q. How about from this industry compliance discussion. Do you know if there was any notes or anything circulated to anybody who participated afterwards?
MS. McCLURE: Objection to form.
THE WITNESS: No. Not that I recall.
BY MR. PIFKO:
Q. Did you serve on any other committees besides the regulatory affairs committee?
A. As far as serving, no. I participated in other committees, but just to listen in on their calls.
Q. What other committees?

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A. Like federal government affairs. State government affairs.
Q. Any others?
A. That's it that I can think of.
Q. Have you attended meetings in person for other committees?
A. I filled in on a state government affairs in-person meeting for our state government affairs person because she couldn't make the meeting and she asked me to fill in for her.
Q. Who was that?
A. Her name was Julie Eddy, E-D-D-Y.
Q. Do you recall there being any sort of final outcome when you attended this meeting in D.C. concerning the industry compliance guidelines?
MS. McCLURE: Objection to the form.
THE WITNESS: I don't -- as far as the outcome? I -- other than them creating the guidelines.

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BY MR. PIFKO:
Q. Did -- did everybody review drafts of the guidelines and ultimately weigh in on them?
A. I can't say.
MS. McCLURE: Objection to the form.
THE WITNESS: I can't say for sure.
BY MR. PIFKO:
Q. Did you take any notes of your meeting --
A. No.
Q. -- concerning the guidelines?
A. No.
Q. Do you know if Mr. Zimmerman did?
MS. McCLURE: Objection to the form.
THE WITNESS: Don't know.
BY MR. PIFKO:
Q. Did the two of you discuss the guidelines after the meeting?

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A. Well, the guidelines weren't present at the meeting.
Q. The idea of the guidelines?
A. Well, we discussed it before and after the meeting. We knew what the purpose of the meeting was.
Q. What did you think about the idea of having industry compliance guidelines?
MS. McCLURE: Objection to the form.
THE WITNESS: What did I think about the idea? I think it's good for the rest of the industry to have programs.
BY MR. PIFKO:
Q. What did you and Mr. Zimmerman discuss about the guidelines after the meeting?
A. Nothing specifically.
Q. How about before?
A. Just whether or not they put -- you know, follow what -- what we had explained we did.

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Q. You wanted the guidelines to be consistent with what you were doing?
MS. McCLURE: Objection to the form.
THE WITNESS: No, I'm not saying that. I just think that DEA asked us to present our program twice to the industry conference. So we -- we kind of made the assumption that the rest of the industry wanted to try to follow our guidelines as closely as possible.
BY MR. PIFKO:
Q. Do you believe that they do?
A. Don't know. I don't know what they do.
Q. How about the HDMA guidelines, do you feel like they follow your policies?
A. I think it's modeled after them. I'm not sure it exactly follows it. It's been a long time since I've gone through it and read it.

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Q. I mentioned earlier about the idea of communicating with customers about a canceled order.
A. Mm-hmm.
Q. Is there a specific person whose job it is to communicate with customers about canceled order?
MS. McCLURE: Objection to the form.
THE WITNESS: From our department?
BY MR. PIFKO:
Q. Anyone in the company --
MS. McCLURE: Objection.
BY MR. PIFKO:
Q. -- that you're aware of.
A. I wouldn't know who they would talk to.
Q. Are the sales associates the first line of communications with customers?
A. Probably customer care. Or -- or the sales associates.
Q. What customer care, is that

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like a call-in center?
A. It's more like -- yeah, like customer service. They would take calls from customers.
Q. Do you know if they are trained on how to field an inquiry from a customer about an order that's held?
A. They may have been, but I don't know any specifics.
Q. Let's talk about the -- the role of a sales associate in preventing diversion.
A. Okay.
Q. Do sales associates have any job responsibilities in preventing diversion? And let me -- let me put a time frame on that to make it a better question.
Prior to the new OMP system that you put in place in 2007, did sales associates have any role in assisting the company in preventing diversion?
MS. McCLURE: Objection to the form.

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THE WITNESS: The sales associates are -- are required to comply with all the laws and regulations. And they were asked prior to the suspension to -- to do site visits, due diligence visits of customers.
BY MR. PIFKO:
Q. What were they supposed to look for at these visits?
A. They had a questionnaire that they would fill out with the customers and there were certain things that they were told to look for, like, you know, FedEx, or boxes stacked up in the back, and there were other signs of internet pharmacy that we talked about briefly.
Q. Anything else?
MS. McCLURE: Objection to the form.
THE WITNESS: I can't think of anything right offhand.
BY MR. PIFKO:

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Q. Are you familiar with the idea of red flags of diversion? Have you ever heard that term before?
A. Yes, yes.
Q. What about things like a pharmacy that only takes cash, is that a red flag of diversion?
A. Yes. That's a red flag.
Q. Are sales associates supposed to look out for that?
A. I believe so.
Q. In the pre-2007 time period, were they trained to look out for that?
A. I can't remember when those red flag -- red flags came out as far as when we started using those to train salespeople. I don't remember the time frame, but they -- at some point they were trained that that was a red flag to look for.
Q. You don't know if they were trained for that prior to 2007?
A. No.
Q. Do you know if sales

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associates were paid on commission based on sales that the customers would make or purchase?
A. My --
MS. McCLURE: Objection to the form.
THE WITNESS: My understanding is they are not paid on commission anymore. Not for years.
BY MR. PIFKO:
Q. All right. How about in 2007 -- prior to 2007, before?
A. Even then. It's been years since they were paid commission, from what I understand.
Q. Do you have any kind of sense of whether their performance was evaluated based on increasing sales or meeting sales targets?
A. I have no knowledge of how their -- what their compensation is based on.
Q. You don't know either way?

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A. I'm sorry?
Q. You don't know either way?
A. No, I don't.
Q. As someone who is the highest person in the company in diversion control for many years, do you think it's appropriate for salespeople to have performance tied to sales --
MS. McCLURE: Objection.
BY MR. PIFKO:
Q. -- of controlled substances?
MS. McCLURE: Objection to the form of the question.
THE WITNESS: Okay. That's not my area of responsibilities as far as determining how they are paid and compensated.
As long as -- as long as they comply with the laws and regulations. That's not my role.
BY MR. PIFKO:
Q. I'm not asking if it's your role. I'm asking -- you had a role. You were the top person responsible for

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diversion control at the company for many years.
I'm asking you if, in your experience, you think it's appropriate to have someone have their -- their performance of their job measured by how much controlled substances they sell?
MS. McCLURE: Objection to the form of the question.
THE WITNESS: I don't think that's the case with our salespeople, that I know of.
BY MR. PIFKO:
Q. Do you think it's appropriate?
MS. McCLURE: Objection to the form of the question.
THE WITNESS: I guess it depends on what context you're asking. Just generally to sell more controls, I wouldn't -- I would not think that would be appropriate.
BY MR. PIFKO:

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Q. Why not?
A. I'm not -- I'm not sure that that's, you know -- I wouldn't think that's a good practice, especially once controls are a very small percentage of what we distribute.
Q. Why wouldn't you think that's a good practice?
A. To be compensated for selling more controls?
Q. Yeah.
A. I just think it would put more controls -- it would be encouraging customers to buy more controls than they need possibly. I don't -- I don't know why they would be.
Q. Right. And so you wouldn't want any policies at the company that would encourage customers to buy more controls than they need, right?
MS. McCLURE: Objection to the form.
THE WITNESS: Yeah, I wouldn't want to encourage

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customers to buy more controls.
BY MR. PIFKO:
Q. What about -- do you think it's appropriate to encourage customers to manipulate their ordering behavior to circumvent the order monitoring program?
MS. McCLURE: Objection to the form.
THE WITNESS: No, I wouldn't want them to try to circumvent the program at all. I wouldn't want to help them encourage it.
BY MR. PIFKO:
Q. Would you want to guide customers in any way to help them avoid being the subject of regulatory activity in connection with controlled substances purchases?
MS. McCLURE: Objection to the form.
THE WITNESS: Only to keep them out of trouble. Not to guide them to circumvent anything. Maybe to educate them on what the

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consequences are and what their responsibilities are.
BY MR. PIFKO:
Q. What's the difference?
MS. McCLURE: Objection to the form.
THE WITNESS: The difference in what?
BY MR. PIFKO:
Q. Keeping them out of trouble versus guiding them.
A. Well, from my experience, some pharmacists are fairly ignorant of what their responsibilities are. And so we've tried -- you know, we've tried over the years to educate them as much as we could, as far as what their corresponding responsibilities are.
Q. You wouldn't want to tell them to change their ordering practices in a way that would allow them to order controls without getting in trouble?
A. No.
MS. McCLURE: Objection to

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the form.
BY MR. PIFKO:
Q. A quote here from David May, I want to read to you.
He testified: "I don't believe our customers need to know some of the proprietary information that's sensitive around the program."
He's talking about the order monitoring program.
"And again, the reason being is, if there was a customer that wanted to defeat it, we want -- to the extent possible that we can prevent that from happening, we want to do that."
MS. McCLURE: Continuing objection to putting up other witness's testimony without context in front of this witness.
BY MR. PIFKO:
Q. Do you agree that you want to prevent customers from being aware of how the order monitoring program works so that they can't defeat it?

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MS. McCLURE: Objection to the form.
THE WITNESS: I -- I agree with David's comments, his testimony here.
(Document marked for identification as Exhibit ABDC-Mays-6.)
BY MR. PIFKO:
Q. I'm giving you what's been marked as Exhibit 6 and a document that was attached to it, Exhibit 7.
(Document marked for identification as Exhibit ABDC-Mays-7.)
BY MR. PIFKO:
Q. For the record, Exhibit 6 is ABDCMDL00288025, and Exhibit 7 is ABDCMDL00288026.
Take a moment to review that and let me know when you're done.
A. Okay. I've reviewed them.
Q. Have you seen this document before?

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A. I don't recall either one of them. It looks like I was copied on one of them.
Q. Who is James Rice?
A. I'm not sure he's still in that role, manager buying groups, community & specialty pharmacy.
Q. Do you remember discussing this issue with people?
A. Tell me what you think the issue is.
Q. There was a memo sent out to customers. If you look on Exhibit 7 --
A. Mm-hmm.
Q. -- it talks about low volume account project.
Do you see that?
MS. McCLURE: Objection to form.
THE WITNESS: No. I -- go ahead.
MS. McCLURE: Did you just characterize this as a document that was sent to customers? I

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could be incorrect.
MR. PIFKO: I didn't say that.
BY MR. PIFKO:
Q. I'm also handing you --
A. That's what I heard you say too. A memo that was sent out to customers.
Q. I said there was a memo sent out to customers.
A. Oh. Not one of these?
(Document marked for identification as Exhibit ABDC-Mays-8.)
BY MR. PIFKO:
Q. I've also handed you Exhibit 8 which is ABC -- ABDCMDL00288028.
MS. McCLURE: Is there a question pending or are you asking him to --
BY MR. PIFKO:
Q. I want you to review -- review Exhibit 8 as well. And I meant to

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hand that to you originally, but I didn't realize it wasn't in the pile.
MS. McCLURE: Okay. He wants you to read 8.
BY MR. PIFKO:
Q. You've got three documents.
A. Okay. Okay.
Q. All right. So there was a discussion with sales, salespeople about low volume high oxy accounts. Do you recall that discussion?
MS. McCLURE: Objection to the form.
THE WITNESS: I remember that being an issue, having low volume customers that were purchasing high percentages of controls.
BY MR. PIFKO:
Q. What do you remember about that being an issue?
A. Well, because one of the -- one of the, what did we call them, additional reports that get reviewed, we

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take a look at customers' ratio of controlled substances to noncontrolled substances.

And then we take a look at, you know, low volume accounts and those -- and that -- that have a high percentage of purchases, because that could be -- that could be an indicator that they are just purchase -- trying to just purchase controls from us because their primary supplier won't supply the quantities that they want.

Q. Do you recall discussion of these sales talking points that was sent out from regional vice presidents to regional district directors?

A. I don't recall seeing these.

Q. James says to you: "Team, Ed Hazewski is traveling so I spoke with Chris Zimmerman regarding the low volume high oxy e-mail from yesterday."

A. I see that.

Q. "He informed me that" -- "he informed me he is a bit removed from the

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details. However, he provided me with a little history (attached). And apparently this is something that has been well socialized and somehow it has just never made it on our radar."

Do you see that?

A. Yes, I see it.

Q. Do you have an understanding about what he's talking about there?

A. I don't know what the attachments are. It looks like, again it's probably spreadsheets indicating how many customers are -- are below 50,000 a month that have a high percentage of control purchases.

Q. Well, it says here on the -- on the e-mail what the attachments are. You have --

A. Yeah, that's what I said.

Q. -- RVP e-mail which is Exhibit 7?

A. Okay.

Q. And then small customers, which is the spreadsheet I handed it to

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you but it's just spreadsheet. I tried to ease the number of paper in front of you. And it's got sales talking points 7/1/13. Do you see that as one of the attachments?

A. Yes, I see that.

Q. And that is Exhibit 8.

So, the e-mail from the regional vice presidents goes to regional district directors. Do you know what regional district directors are?

A. I think it's -- I would be speculating. I think it's directors of sales, sales directors.

Q. Do you know who any of these people are that are on the cc list, Emily, AJ --

MS. McCLURE: You are on 7?

MR. PIFKO: Yeah.

BY MR. PIFKO:

Q. Senior vice presidents, George Rafferty, Chuck Ball, George Bray, Ginette Meluso, do you know who any of these --

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A. They are all senior people in sales.

Q. It says, "Re: Low volume account project."

Do you see that?

A. You still on that same -- still on Number 7?

Q. Exhibit 7, yeah.

A. Yeah.

Q. Do you see that?

A. Yes.

Q. Okay. It says, "Attached you will find a list of all of our region's accounts with less than (in most cases much less than) 50,000 a month in purchasing."

Do you see that?

A. Mm-hmm.

Q. "Although these accounts are what we would consider low overall volume, they are also purchasing a high percentage of Schedule II controlled substances versus their overall volume."

Do you see that?

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A. I see that. Is there a question?
Q. Yeah, I'm going to be asking you some questions.
"As such I need you and your teams to do a few things between now and September 1. One of the things is, make contact with these customers and challenge them to grow their overall relationship with AmerisourceBergen. There can be no better way to flex your new challenger skills than to turn what has been a lower volume account into a more significant and mutually valuable customer relationship."
Do you see that?
A. Yes, I do.
Q. Down at the bottom it says, "For your reference, I am attaching the list of customers as well as talking points for your use in these conversations."
Do you see that?
A. I do.

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Q. Okay. Exhibit 8 are the talking points.
A. Okay.
Q. Go to the middle paragraph. It says, "Based on your overall volume with us, your percentage of Schedule II controlled substances order is high and may be deemed suspicious by either our order monitoring system or regulatory authorities. This puts your account with AmerisourceBergen at significant risk of closure or exposure to regulatory and enforcement action."
Do you see that?
A. Yes, I do.
Q. Do you agree that if someone has a high percentage of controlled substances, Schedule II controlled substances, and a low volume, that that could put them at risk of closure or regulatory enforcement actions?
A. That's a red flag.
Q. That's a problem, right?
A. Yes. Yes.

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Q. And then this talking point then goes on to say, "Everyday we read about another independent pharmacy under investigation. I want to make sure that doesn't happen to you. The way I see it is that you have a couple of options. First, you can make ABDC your primary wholesaler and shift all your purchases to us."
Do you see that?
A. Yes, I see that.
Q. Do you think it's appropriate to be guiding a customer who is a red flag customer on how to change their ordering practice here to evade what this document says puts them at risk of closure or regulatory action?
MS. McCLURE: Objection to the form of the question.
THE WITNESS: You are asking me what I think?
BY MR. PIFKO:
Q. Yes.
A. What they are trying to do

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is to increase their noncontrolled purchases. They are asking them to increase their noncontrolled purchases.
Q. Correct.
A. Their other purchases. If they are going to buy controls from us, they are going to have to buy everything else.
Q. To avoid the risk of closure or exposure to regulatory enforcement actions?
A. Yeah.
Q. You agree that's what it says?
A. Yeah, I think it means the risk of closure that we -- that's one of the options, is we would close the account if they are going to maintain that ratio.
Q. Or they could be exposed to regulatory enforcement actions, agreed?
A. They are always exposed to that.
Q. But it's specifically

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because they have a high volume of controlled --
A. There's a risk of it, yes.
Q. And rather than terminate the customer or report them to authorities, Amerisource is telling its sales associates to tell the customers to increase their noncontrols so that they are not terminated or they are not the subject of an enforcement action?
A. I -- what do you mean by not -- we are not trying to not report them. If they -- if they have a suspicious order, it would get reported.
This is just based on their ratio of controlled substances to noncontrolled substances. Because we don't know if that's all the controlled substances they purchase. So if they are not buying a lot of other products, then it could be a -- that's a red flag. It's just that percentage is a red flag. That's one of the things that DEA has asked us to look into.

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Q. You say, "The third option would be to do nothing, but this is not a feasible long-term decision." Why would they --
A. You skipped the second option.
Q. I'm talking about the third option.
A. Okay.
Q. Why -- why would they say that? Why would they say doing nothing is not a feasible long-term decision?
A. I would assume they are telling them they are not going to continue to be an account of ours if they don't change the behavior.
Q. So they need to change their behavior or they'll be closed or exposed to regulatory and enforcement action, correct?
MS. McCLURE: Objection.
THE WITNESS: I can't speculate as to what they were -- what their intention was when they

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wrote this. I didn't write it.
BY MR. PIFKO:
Q. That's what it's saying, correct?
A. It's saying a third option would be to do nothing, but this is not feasible long-term decision as it's not a good option for anyone.
I don't --
Q. Well, you said yourself that they wouldn't be able to continue that, correct?
A. I would assume that's what they are saying.
Q. And so, they are telling them how to avoid being closed or the subject of regulatory enforcement action by changing their purchasing habits. Agreed?
MS. McCLURE: Objection to form.
THE WITNESS: I don't think that's what they're telling them. I don't think they're trying to

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help the customer avoid regulatory. They are trying to help the customer.
BY MR. PIFKO:
Q. How about the last sentence here, or second to last: "In the short term, we need to fix your purchasing habits from AB" -- "ABDC." What do you think that's telling them?
A. They could be telling them to purchase less controlled substances and more noncontrolled substances.
Q. Did anyone come to you and say I'm concerned about these customers, we should report them?
MS. McCLURE: Objection to the form.
THE WITNESS: We can't report them just because we have concerns about them. We report them if they have a suspicious order.
BY MR. PIFKO:
Q. Well, it says here, "Based

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on your overall volume with us your percentage of controlled" -- "Schedule II controlled orders is high and may be deemed suspicious."
A. Well, we didn't write that. I don't know who wrote this.
Q. You agree that's a basis -- you already agreed that's a basis by which an order could be suspicious.
A. That's a red flag about that customer. Not about suspicious orders.
Q. You don't think an order from a customer who is placing unusually high Schedule II controlled substances is suspicious?
A. That's not the parameters that are built into our suspicious order monitoring program.
Q. That isn't something that concerns you?
A. It's a red flag for the customer.
Q. Do you want to be doing business with someone like that?

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MS. McCLURE: Objection to the form.
THE WITNESS: We don't want -- we don't want to do business with anyone that -- that may not be complying with the laws and regulations.
(Document marked for identification as Exhibit ABDC-Mays-9.)
BY MR. PIFKO:
Q. I'm handing you what's been marked as Exhibit 9 and 10.
(Document marked for identification as Exhibit ABDC-Mays-10.)
BY MR. PIFKO:
Q. For the record Exhibit 9 is an e-mail Bates-labeled ABDCMDL00282233, and Exhibit 10 is an attachment to that, Bates-labeled ABDCMDL00282234.
A. Okay.
Q. Do you recall seeing these documents?

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A. No. I don't remember it.
Q. The first, Exhibit 9, is an e-mail from Ed Hazewski to you dated June 17, 2013.
A. Yes, I see it.
Q. Subject is low volume. He's attaching Exhibit 10.
A. Correct.
Q. Do you recall discussing an order monitoring program strategy for retail accounts?
A. Not a specific one. It came up quite a few times, low volume accounts.
Q. The second-to-last page here of Exhibit 10.
A. Okay.
Q. Do you dispute that you received these documents?
A. No, I don't dispute that I received them.
Q. Do you know who put this together, the PowerPoint? Was it you or Ed?

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A. I believe Ed did.
Q. First bullet point here, what's your understanding of what is being discussed there?
A. My understanding is I think what he's proposing is for new customers, that they have to maintain a ratio of controls to non-controls for the first three months.
Q. Are you on the second-to-last page?
A. I think I am. I'm sorry. I guess you are talking about Page 9.
Q. Thanks.
A. I'm sorry. All right. Start over. First bullet point.
Q. The heading is, "Proposed changes: Existing customers."
A. Yeah. Got it now. Yeah, it looks like he's proposing if they are less than 50,000 a month, that they would get no controlled substances or no high risk controlled substances.
Q. What's a high risk?

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A. I believe he had identified certain controlled substances of high risk. They were more subject to diversion, mostly opioids I think.
Q. So you discussed terminating your relationship with those kinds of customers?
MS. McCLURE: Objection to the form.
THE WITNESS: I don't remember the discussions. This is -- this looks like something that he's proposed.
BY MR. PIFKO:
Q. He's proposing --
A. I don't even know who he's proposing it to.
Q. Well, he's sending it to you.
A. Okay.
Q. Agree?
A. He sent it to me to review. I don't know who he's proposing it to.
Q. What makes you think that

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he's sending it to you to review?
A. I don't know. He sent it to me.
Q. Well, in any event, you agree in that bullet point he's talking about making a business decision about whether you want to continue the relationship with those kinds of customers?
A. It sounds like he's suggesting if they are less than $50,000 average per month, that they should get -- not be able to purchase controlled substances or not be able to purchase high risk controlled substance, and a business decision as to the continued relationship.
I'm assuming after the three months. I don't -- I'm not sure exactly. It looks like he's making a proposal.
Q. What do you mean continued relationship, it means not continuing the relationship, right?
A. And a business decision as

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to the -- as to the continued relationship.
I'm not sure I understand what he's asking there or saying.
Q. Do you recall this being low volume accounts with high Schedule II controlled substances being a concern?
A. Yes.
Q. And needing to deal with making changes to existing customers, as this slide here says?
MS. McCLURE: Objection to the form.
THE WITNESS: It was a concern to us because it's -- if you think about the old 80/20 rule, it's the lowest percentage of the customers are creating the most work for his team because their -- because of their ratios.
BY MR. PIFKO:
Q. Why are they creating more work for his team?
A. Because they're low volume

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and they still are hitting the OMP. So they are having to spend time investigating those customers, and they're low volume, so they're not doing the company any good as a whole. So that was -- it was a, you know, a long-term issue, was low volume accounts, what to do about them.
Q. Earlier you said, from your experience, some pharmacists are fairly ignorant of what their responsibilities are. Do you recall that?
A. Mm-hmm.
Q. What experience --
A. I said some. Not all.
Q. What experience do you have about pharmacists being ignorant of their responsibilities?
A. On the experience of some of my visits to some pharmacies, asking questions and getting the answers that I got.
Q. What kind of questions did you ask and answers that you get that

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made you think they were ignorant of their responsibilities?
A. Just some of the statements that some would make about, if the doctor writes it, then I have to fill it. You know, who am I to question the doctor, things like that. They have a -- it's in the regulations, they have a corresponding responsibility.
Q. They can question that -- the doctor?
A. Absolutely.
Q. They don't have to fill every prescription that's presented to them?
A. No, they do not.
Q. Did you do anything to educate customers about those -- those regulations?
A. Yes. During -- during those visits to certain pharmacies, and also we did some training at what they call cluster meetings.
Q. What's a cluster meeting?

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A. Its customers are -- it's a group of retail pharmacy customers that are part of one of the programs, one of our corporate programs. And they would have what they call cluster meetings, and they would discuss a lot of things and maybe talk about programs and things like that. And we were -- I know I was invited to present to some customers on a couple of occasions on the whole diversion control issue and try to educate them on their responsibilities.
Q. Do you remember any specific pharmacies who fit in this category?
A. No. Most of the ones I did were in Florida. I think a couple that -- the couple that I did were in Florida.
Q. Did you ever witness any of these pharmacies filling questionable prescriptions?
A. No. No.
Q. Did you ever report any of them to the DEA?

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MS. McCLURE: Objection to the form.
THE WITNESS: Report the actual pharmacy to the DEA? At one time we reported pharmacies to the DEA that we had determined that we were going to stop doing business with, that we were going to cut off. We would report those to DEA.
BY MR. PIFKO:
Q. When was that?
A. There was a period in, I think it was between -- after 2007, DEA had actually encouraged different members of the industry to report to DEA customers that they had cut off. And the DEA would send an e-mail out to the other distributors to tell them that this customer had been cut off by another distributor.
Q. And what's the idea there?
A. I think that got stopped at some point.

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Q. Do you have an understanding of why they were doing that?
A. Well, I think -- I think it probably is some people at DEA don't have a real good understanding of antitrust laws and things like that. And I think they were trying to, you know, kind of blacklist pharmacies to keep other distributors -- because what was happening, one distributor would cut a pharmacy off, they would just open up an account with another one. I think DEA was trying to -- I think DEA was trying to prevent that as much as they could.
Q. Do you recall the names of any pharmacies that you reported to the DEA?
MS. McCLURE: Objection to the form.
THE WITNESS: There's been several, yeah, I just don't know specifics. We had a couple. I remember a few.
I'm going to grab a glass of

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water while you're doing that.
MR. PIFKO: Do you want to take a quick -- we don't have to all leave the room. We can go off the record for five minutes.
MS. McCLURE: Yeah, let's take a five-minute.
THE VIDEOGRAPHER: Going off the record. The time is 4:27.
(Short break.)
THE VIDEOGRAPHER: Back on the record. Beginning Media File Number 5. The time is 4:45.
BY MR. PIFKO:
Q. I'm handing you what's marked as Exhibit 12.
(Document marked for identification as Exhibit ABDC-Mays-12.)
BY MR. PIFKO:
Q. Document Bates-labeled --
MS. McCLURE: What was 11?
BY MR. PIFKO:
Q. ABDCMDL00275491-2.

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MS. McCLURE: Did we skip 11 or am I --
MR. PIFKO: No, it's hardly --
MS. McCLURE: No, I'm just --
THE WITNESS: There's not an 11. Maybe that's the one that you sent to be printed. Is that going to be 11?
MR. PIFKO: I don't know where 11's sticker is. It doesn't matter. This one's 12. We'll figure it out.
MS. McCLURE: Okay. Well, for the record, I don't believe there was an 11. So let's go to 12.
BY MR. PIFKO:
Q. It's an e-mail from you to Chris Zimmerman, forwarding something with the subject, "More West Virginia counties target distributors in opioid crisis; related media likely to get

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congressional attention." It's dated March 14, 2017.
Take a moment to review it and let me know when you're done.
A. Okay.
Q. So this is an e-mail describing some lawsuits about the opioid crisis. And you reply: "I guess if all the distributors stopped shipping controlled substances into West Virginia the problem would be solved, correct?"
Do you see that?
A. Yeah, I see it.
Q. Do you agree that if distributors stop selling controlled substances into West Virginia, the opioid crisis there would have been stopped?
MS. McCLURE: Objection.
THE WITNESS: No.
BY MR. PIFKO:
Q. What did you mean by this?
A. It was just a snarky comment.
Q. Do you think the opioid

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crisis was a joke?
A. No, I don't at all.
Q. Apparently you think it's worth making snarky comments about with your colleagues?
A. No.
Q. You did here?
A. Yeah, it was, yeah. It was -- it was an inappropriate snarky comment out of frustration that we were getting sued by all these people. Yeah.
Q. Why were you frustrated --
A. By distributing pharmaceuticals into the state.
Q. Why were you frustrated?
A. Because I don't think we are guilty of anything. It's a little frustrating to be getting sued by all these counties --
Q. Do you think that --
A. -- and cities and so forth, and -- and we haven't done anything wrong in my opinion.
Q. Do you think that

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AmerisourceBergen as a distributor had any role in the opioid crisis?
MS. McCLURE: Objection to the form.
THE WITNESS: No.
BY MR. PIFKO:
Q. Did you sell pills into West Virginia?
A. We distribute to pharmacies and customers in West Virginia, yes.
Q. You don't think any of the sales that you made contributed to the epidemic?
A. I don't know if they did or not.
Q. Between you and AmerisourceBergen, are you -- and Cardinal Health and McKesson control about 90 percent of the market, you don't think any of you guys together had a role in selling the pills that created this crisis?
MS. McCLURE: Objection to the form. I'm going to ask you if

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you want the witness to be excused or if you want me to interpose my objection on the record with the witness present.
MR. PIFKO: You can make a valid objection. You don't need the witness to leave.
MS. McCLURE: Sure. My valid objection is that pursuant to Special Master Cohen's ruling on the legal interpretation and conclusion about whether -- when -- when witnesses are asked questions about whether, for example here AmerisourceBergen, caused and/or contributed to the opioid epidemic, the Special Master ruled that --
MR. PIFKO: I think it's different in the context of this e-mail.
MS. McCLURE: I'm not -- wasn't finished talking. You can talk after I talk.

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MR. PIFKO: I understand your objection. I've read the -- I've read the direction.
MS. McCLURE: No, I'm going to make it for the record. Not just for you, Mark.
So Special Master ruled that such a topic was inappropriate for discussion in the 30(b)(6) context.
I also note that in the fact witness context, this witness has not been designated as a 30(b)(6) witness. And so in a fact witness context, it's even more inappropriate to ask witnesses whether they believe that there was any role played or whether any company or defendant contributed to the crisis.
So I -- we object to this continuing line of questioning.
BY MR. PIFKO:
Q. Same question --

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A. Do you want to repeat the question?
Q. Yeah. I asked if you along with McKesson and Cardinal Health controlled 90 percent of the market, you don't think that you've had any contribution to the crisis in West Virginia?
A. I don't think --
MS. McCLURE: Again, objection to this continuing line of questioning under the Special Master's prior ruling.
THE WITNESS: Do you want me to answer?
BY MR. PIFKO:
Q. Yes.
A. I don't think so.
Q. You said you didn't do anything wrong. Do you recall saying that?
A. I'm sorry?
Q. You said we didn't do anything wrong. Do you recall saying

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that?
A. I just said that, yes.
Q. Yeah. What about the DEA enforcement action. Do you think you had bad conduct that led to that?
A. The enforcement action --
MS. McCLURE: Objection to the form of the question.
BY MR. PIFKO:
Q. The one that we've been talking about, the 2007 one.
A. In 2007? I don't believe we admitted to any -- any wrongdoing or any violations.
Q. So you don't think you did anything wrong. We're talking about whether the company --
A. I don't think we did anything wrong, no.
Q. You think the DEA was out to lunch when they went out to get you?
MS. McCLURE: Objection to the form of the question.
THE WITNESS: I'm not -- no,

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I'm not -- I don't say -- I am not saying that.
BY MR. PIFKO:
Q. Well, what are you saying? Why would they go after you if you didn't do anything wrong?
A. Because in their opinion they thought we did.
Q. And you think they are wrong?
A. I think they are wrong, yes.
Q. Why do you think they are wrong?
A. Because we comply with the regulations.
Q. Did your company pay money to the West Virginia Attorney General in connection with the lawsuit they brought against you?
A. I believe we did.
Q. Do you think you did anything wrong there?
A. No.
MR. PIFKO: The document I'm

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waiting to be printed just arrived.
I found 11.
MS. McCLURE: Magic.
(Document marked for identification as Exhibit ABDC-Mays-11.)
BY MR. PIFKO:
Q. I'm handing you what's marked as Exhibit 11 and Exhibit 13.
(Document marked for identification as Exhibit ABDC-Mays-13.)
THE WITNESS: Thank you.
BY MR. PIFKO:
Q. Take a minute to review that.
MR. PIFKO: This is 11. And this is 13.
MS. McCLURE: Thank you.
MR. PIFKO: For the record, Exhibit 11 is Bates labeled ABDCMDL00289421. And Exhibit 13 is Bates labeled ABDCMDL00289422

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through 429.
BY MR. PIFKO:
Q. Let me know when you're done reviewing those.
A. Okay.
Q. Let's go to the last page of Exhibit 13.
A. Okay.
Q. 289429.
A. Okay.
Q. It's an internal Walgreens e-mail. "We received Schedule III controlled substance item today via Amerisource. This location does not have a DEA license."
Then they identify the materials, or the substances that were sent there.
Then go to the next page, 289428. Middle. Another pharmacy manager says, "We received another Schedule III controlled substance from Amerisource."
Someone writes back, "Why

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does this" -- "how does this keep happening? This is a store that lost their DEA license."

Someone else writes --

MS. McCLURE: I'll note for the record that you're excerpting parts of the testimony, but the document will speak for itself.

BY MR. PIFKO:

Q. "What are your thoughts on this? Store 3099 is not supposed to receive controlled drugs."

MS. McCLURE: Is there a question?

BY MR. PIFKO:

Q. Then there's some back and forth here, and they identify more and more stores that don't have licenses.

Do you think that was a failure of Amerisource's system to ship controlled substances to stores that don't have DEA license?

MS. McCLURE: Object to form.

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THE WITNESS: I don't think they lost their license. I believe they might have been suspended. I think that was during that time where they suspended some licenses of some of the stores.

BY MR. PIFKO:

Q. Does that make a difference?

A. No. No.

Q. Are you supposed to be shipping controlled licenses to stores that don't have licenses?

A. No. No, we are not.

Q. Is that a failure of your system?

A. It looks like it was a mistake, yeah.

MS. McCLURE: Objection to the form.

THE WITNESS: It looks like it was caught and they were blocked.

BY MR. PIFKO:

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Q. That's not accurate. If you look at the e-mail that starts on 289422, and it goes to 423, Marisol Olmo is writing to you among other people. She notes at the end, "I will start calling the stores, but there is the possibility that some of them may have dispensed the items."

MS. McCLURE: Is there a question?

BY MR. PIFKO:

Q. Is that what's supposed to happen here?

A. Is there a question?

It looks like when they got the master list to load the accounts, they validated the DEAs were in place, and that must have been around the time that they were suspended.

Q. Do you know if any of the substances --

A. It wasn't caught.

Q. -- that were delivered to these companies were dispensed?

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A. I wouldn't -- I don't know. I don't know.

Q. You don't know either way?

A. No, I don't.

Q. It's possible that they could have been dispensed.

MS. DESH: Object to form.

MS. McCLURE: Objection to form.

THE WITNESS: I doubt it.

BY MR. PIFKO:

Q. Why do you doubt it? What basis do you have?

A. They probably had their registrant suspended, so they probably had instructions from DEA not to dispense anything.

Q. Well, they're accepting the order from you. Agreed?

MS. McCLURE: Objection to the form.

MS. DESH: Objection to form.

THE WITNESS: I don't know.

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BY MR. PIFKO:
Q. Are you supposed to sell controlled substances to facilities that don't have a license?
MS. McCLURE: Objection to form.
THE WITNESS: No, we're not.
BY MR. PIFKO:
Q. Do you recall receiving these e-mails?
A. No, I don't really remember this at all. But I was on the e-mail list.
Q. Let's go to Exhibit 11. Who is Marisol Olmo?
A. She's the CSRA manager in Orlando.
Q. She's talking about "do not ship" list.
A. Mm-hmm.
Q. What's a "do not ship" list?
A. That's a list of customers that we have cut off or we've heard have been closed or action taken by DEA or

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anything like that. Then it gets sent out, I believe on a monthly basis.
MS. McCLURE: I'll note for the record that Exhibit 11 seems to be missing one attachment.
BY MR. PIFKO:
Q. So you write, nearly a week later to Marisol and ask her why a Walgreens account with suspended license aren't on the "do not ship" list.
MS. McCLURE: Objection. Misstates the document.
THE WITNESS: No.
BY MR. PIFKO:
Q. Oh, she writes to you. Sorry.
A. Yeah, it looks like she just checked after this occurrence, this thing happened, that got corrected, she went to check to see if they were on the "do not ship" list and asked why they weren't.
Q. Do you know why it took her --
A. Because the previous month's

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listed already been sent out before we knew they had been suspended.
Q. Do you know why it took her a week after she learned of this to deal with that?
MS. McCLURE: Objection to form.
THE WITNESS: No, I don't know.
BY MR. PIFKO:
Q. What did you say in response to her?
A. I don't know. Where is the rest of the e-mail? I don't know. Where is my response?
Q. I'm asking you.
A. I don't know.
Q. Do you know why the Walgreens pharmacies aren't on the "do not ship" list?
MS. McCLURE: Objection. Asked and answered.
THE WITNESS: I thought I just answered that. The list gets

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sent out once a month. So it was probably sent out before this issue was discovered. So they would not have been on there.
BY MR. PIFKO:
Q. Do you know that to be true, or are you just speculating?
A. I don't know when she received the list.
Q. So you don't know?
A. It looks like the 27th.
Q. So you don't know; is that right?
A. Yeah, I don't know.
MR. PIFKO: We are going to take a short break. I think we're done.
THE VIDEOGRAPHER: Going off the record. The time is 5:04.
(Short break.)
THE VIDEOGRAPHER: Go back on the record. Beginning Media File Number 6. The time is 5:14.
MR. PIFKO: All right.

Unless you have any direct examination, I have no further questions.

MS. McCLURE: I have no further questions -- I have no questions. How about that.

MR. PIFKO: All right. Thank you.

THE VIDEOGRAPHER: This concludes today's deposition. We are going off record. The time is 5:14.

(Excused.)

(Deposition concluded at approximately 5:14 p.m.)

CERTIFICATE

I HEREBY CERTIFY that the witness was duly sworn by me and that the deposition is a true record of the testimony given by the witness.

It was requested before completion of the deposition that the witness, STEPHEN MAYS, have the opportunity to read and sign the deposition transcript.

____

MICHELLE L. GRAY,
A Registered Professional Reporter, Certified Shorthand Reporter, Certified Realtime Reporter and Notary Public
Dated: October 29, 2018

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Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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ACKNOWLEDGMENT OF DEPONENT

I,____________________, do hereby certify that I have read the foregoing pages, 1 - 383, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

____

STEPHEN MAYS DATE

Subscribed and sworn
to before me this
_____ day of ______________, 20____.
My commission expires:______________

____
Notary Public

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LAWYER'S NOTES

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